

Comment	Source	Policy/Rule/TCA Reference	DIDD Response
My Comment: The “Summary of Revision to the DIDD Provider Manual” dated 8/29/13 states that the summary “cannot be all inclusive based on the size and complexity of the document and review”. While the difficulties of manual preparation and promulgation including the review of public input are fully appreciated, unfortunately, ti achieve a successful end that includes the understanding, involvement and buy-in of stakeholders, the explanation of changes needs to be fully and systematically presented. Using only the aforementioned summary, stakeholders are expected to independently identify and analyze all changes, a herculean task by any standards. I, certainly, have not been able to accomplish that, and I suspect that may be true for others as well. Persons served, legally- authorized family members, and providers should be presented with an organized, comprehensive record of changes. Does a point-by-point notation of addition, subtractions and other changes exist?	John Croxton, Sertoma Center	None	No, this document does not exist.

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My Comment: INN.2 page IN-1 states “This Provider Manual supersedes all previous provider manuals. Additional requirements not addressed in the provider manual can be found on the Provider Info page of the DIDD web site.” While of course the new manual supersedes the old, it should be noted that in a great many instances, explicit p\prescriptive information present in the old manual is replaced with more values-oriented less specific “guidance” in the new. When the old manual was implemented, it was a boon to providers and such precision may be missed. Absent specificity, subjective interpretation by reviewers may ensue. The “Provider Info” page lists am array of documents, some of which we have explicitly been told do not reflect or cannot be relied upon to stand as acceptable policy (such as some of the resource tools), therefore in my mind the reference to the page is problematic. Perhaps the “additional requirements” component could be separated from elements not meeting that standard on the Provider Info page. Similarly, it would be desirable for all requirements to be specifically referenced in the provider manual. Is this the case?	John Croxton, Sertoma Center	INN; Section INN.2	The language has been revised to read as follows: "Requirements not detailed in the provider manual can be found on the Provider Info page of the DIDD web site."
Our Comments: Provider Manual Introduction Page IN-10 – IN.8. DIDD Vision, Mission and Values; IN.8.b. --Mission Statement --the reference here is only to people with intellectual disabilities; missing is developmental disabilities, which is included in IN.8.a. Vision Statement	Tonya Bowman, Treva Sease, Julie Sullivan, Belinda Hotchkiss, Donna DeStefano, Family Voices of TN	INN; Section IN-10; Section IN.8.b.	The mission statement has been revised and reads as follows: "The Department’s mission is to become the nation’s most person-centered and cost effective state support system for people with intellectual and developmental disabilities."

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We appreciate DIDD’s mindfulness of the varied accessibility needs of individuals with disabilities. Due to the fact that PDF format is often inaccessible to people with visual disabilities, we suggest the DIDD Provider Manual be available in alternate formats. IN.2.b Distribution	Lisa Primm, Disability Law & Advocacy Center	None	The Department will publish the provider manual in three formats, PDF, WORD and web page. The online version will be compatible with software tools for accessibility.
IN.2.c Updates: the legal requirement for fiscal impact reviews should also be mentioned.	TNCO	INN; Section IN. 2. c	The language has been revised to read as follows: "Changes in provider requirements that result in manual updates will require a public meeting and fiscal impact statement of applicable manual sections as required by state law. "
IN.7.b The Statewide and Regional Planning & Policy Council Meetings: the description of the Councils does not mention any advisory responsibilities.	TNCO	INN; Section IN 7.b	This section details meetings in which TennCare and DIDD participate, and is not a description of each Committee's or Council's responsibilities.
IN.8.c Provider payment rates: the need for rates to be connected with actual costs should be mentioned.	TNCO	INN; Section IN 8.c	The State has a limited amount of money available to fund DIDD programs and services. DIDD, like other state agencies and departments, must provide and manage programs and services within the allocated budget.

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Chapter 1 Eligibility Enrollment and Disenrollment Section 1.6.b and 4-10 Question: In both sections, regarding annual re-evaluation and re-determination, the requirement for a QMRP/QIDP/QDDP is no longer referenced. Question: Are all fully trained ISC's now eligible to sign the Annual Re-Evaluation forms or is the requirement that they be QMRP/QIDP/QDDP still maintained in policy outside of the Provider Manual?	Community Network Services LLC	Chapter 1, Section 1.6.b.	The requirement has not changed and is specified in DIDD policy 80.3.2. Level of Care Reevaluations Policy.
Chapter 1 – Disenrollment – As a family member, I have concerns about the 90-day limit that is all a client can be out-of-state for care without losing their waiver services. This is particularly concerning for a family considering a medical hospitalization in Georgia for their son to deal with his medications and dual diagnoses. Reportedly, a major hospital in Middle TN says that the Georgia hospital is the only place that can address their son's needs. The stay will likely be closer to 6 months. Therefore, the family has the heavy responsibility to weigh their son's losing statewide services in order to hopefully gain a better quality of life by getting the medical treatment he needs. I recommend that there is a review panel or committee to address situations such as this so that exceptions can be made, as appropriate to the individual.	Tonya Bowman, Treva Sease, Julie Sullivan, Belinda Hotchkiss, Donna DeStefano, Family Voices of TN	Chapter 1	We understand your concern. The Rules of the Department of Finance and Administration, Bureau of TennCare, Chapter 1200-13-01-.25, 1200-13-01-.28 and 1200-13-01-.29, establish disenrollment criteria. However, on a case-by-case basis due to extreme extenuating circumstances, the Department can work with the Bureau of TennCare to make an exception.

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My first comment is a problem with respect to addressing rights in the manual. The manual attempts to balance the rights of persons with protection from harm and fails in some significant areas. In some areas rights that are legally those of the person are denied in the name of protection from harm. For example, freedom of choice. In other areas protection from harm is not afforded to persons in the name of protecting their rights.	William Barrick, ComCare	Chapters 2 and 7	The Department acknowledges that there is a delicate balance between individual's rights and protection from harm considerations. The Department does not believe that we have failed in accomplishing this balance in the Provider Manual.
For example, in intimate relations. DIDD correctly states the law in Tennessee that an adult has decision-making rights, until or unless taken away by a court. In the Provider Manual DIDD lists a number of rights enjoyed by persons receiving services, and correctly states that they are presumed to have the capacity to make decisions unless removed by a court.	William Barrick, ComCare	Chapter 2, Section 2.1.a, Section 2.4.c, Section 2.9	Your comment is noted.
The problem is, DIDD then turns around and treats people receiving services as vulnerable and unable to exercise their own rights, and in the name of protection from harm expects the provider to circumscribe those rights. The reliance -- and part of this problem is the approach of the Human Rights Committee. The Provider Manual in 2.9.e, for example, even though the court is the only entity authorized to remove rights in accordance with due process, the Human Rights Committee is established by DIDD and is widely misunderstood that the Human Rights Committee has the authority to restrict rights. DIDD needs to clarify the role of the Human Rights Committee as approving a provider's plan for restriction after informed consent is given by the person or the conservator. This would make it clear that the HRC is approving a provider's plan rather than restricting rights against the will of the person or the conservator.	William Barrick, ComCare	Chapter 2, Section 2.9.e	In section 2.9.e, the Department has clarified that rights restrictions occur with the consent of the person supported and/or their legal representative.

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There also needs to be a specific provision that clarifies that the Human Rights Committee has no authority over professionals prescribing of medications. The informed consent for the medication is given by the person or by the conservator, and the provider is compelled by the physician's order to administer the medication. This is not a provider plan for restriction of rights.	William Barrick, ComCare	Chapter 2, Section 2.9.e	In 2.9.e, the Provider Manual states the Human Rights Committee reviews psychotropic medication, not approves.
This is a -- this is a particular problem, and I think there's a common misunderstanding that the Human Rights Committee can restrict a person's rights when, in fact, only a court can restrict a person's rights in this state.	William Barrick, ComCare	None	In section 2.9.e, the Department has clarified that rights restrictions occur with the consent of the person supported and/or their legal representative.
The other problem is in intimate relations. The Provider Manual at 2.4.c states "Intimate relationships -- individuals have the right to have intimate relationships with other people of their own choosing unless such rights have been specifically restricted by a court order." What is the effect of that statement of rights? To my knowledge -- and this is over 15 years and hundreds of conservatorship cases, no Tennessee court has taken away a person's right to intimate relations. If you apply that to their standard then, everyone in the DIDD program has the full right to intimate relations. Now what's the effect of that? All people served by DIDD are then deemed to have capacity to make decisions regarding intimate relations. If a person, in fact, has capacity to make decisions, neither DIDD nor the provider, nor interested family can prevent him or her from engaging in any sexual conduct with any partner that also has the capacity to consent. In other words, if you read DIDD's statement of rights accurately, everyone has the right to engage in sexual conduct.	William Barrick, ComCare	Chapter 2, Section 2.4.c	Thank you for your opinion. The Department appreciates the difficulty of supporting people with intellectual disabilities to have intimate relationships. The Department is willing to engage in a dialogue on best practices which enable providers to preserve the rights of people with intellectual disabilities and comply with the intent of TN statute which protects people who may not have capacity to consent to intimate relationships.

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If, in fact, that is the case, then none of us can do anything to protect them from harm except give them advice. It's sort of like a -- it's sort of like an adult daughter or son who chooses to have, make mistakes in sexual relations. All you can do is advise them. That is not what I think the intent is. If a person, in fact -- well, excuse me. On the other hand, if a person does not have capacity, all sexual contact is precluded. In other words, if a person doesn't have sexual contact in -- capacity in Tennessee, it precludes them from any contact with anyone else because it would be rape, so the policy creates a dilemma for the provider that is completely unmanageable. I mean, what do you do? Do you let a person who doesn't have capacity have sexual relations, and be accused of aiding and abetting rape, or do you assume that everyone has sexual capacity, and you try to explain it to their mom or dad that they have the right to go out and have sex with anybody they choose to? That's the dilemma. Now, the definition ignores the fact that the issue is not whether the court has removed the right to engage in intimate relations, but whether in fact the person lacks capacity. My experience in the courts in Tennessee is that juries and judges will believe that if a person is vulnerable enough to be receiving taxpayer services, that they don't have capacity.			

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I've never had a judge turn me down on a request for conservatorship on a person in this state, so I think that saying that they haven't been determined, therefore, they have capacity, is not in the best interest of the person, and it's not in the best interest of the provider community either. Commissioner Payne at the Tenn. NADD Conference remarked -- and I thought this was a very positive thing. That's why I'm going to say this. It remarked on the need for policy efforts in this area. DIDD, at a minimum, needs to describe professional assessments of capacity and instruct providers as to the appropriate facilitation or prevention of the exercise of intimate relations. This is absolutely necessary to prevent criminal and civil liability for providers, so I'm encouraging that this whole area of intimate relations in the manual be -- take another look at that and DIDD come up with a policy to instruct providers in what to do and provide assessments.	William Barrick, ComCare	Chapter 2, Section 2.4.a	Thank you for your comment, Department leadership will take this under consideration. The Department's definition of intimate relationships in the Provider Manual encompasses more than those of a sexual nature.
Freedom of choice is the second major issue. Freedom of choice is an important Medicaid right which is missing from the list of rights, C.2.1.a. When discussed in the manual at 4.6.c, freedom of choice is largely presented as a choice between ICF I.D. and waiver. That is, in fact, one freedom of choice. However, in fact, freedom of choice applies to choosing among all qualified Medicaid providers, whether an ISC, whether a doctor, whether a therapist, whether a pharmacy or an agency, is a requirement of federal law. The right to choose a provider is not dependent on review by someone else and not required to be justified. A person can choose to change providers for any reason. That is not illegal. It can be because he or she does not trust a provider, or does not like the color of the house, and if you want to put this in context, this is the same as a Medicaid recipient choosing a doctor. If they don't feel comfortable with that doctor, they will get another doctor. They have that absolute right.	William Barrick, ComCare	Chapter 2, Section 2.1.a Chapter 4, Section 4.6.c	We respectfully disagree. Chapter 2 describes all human rights and chapter 4 is specific to Medicaid waiver services. At section 4.6.c, the Provider Manual reads as follows "Freedom of Choice also means that a person has the right to select any qualified provider that is available, willing, and able to provide the services needed." As regards the right to choose providers is not contingent upon review, per the appropriately approved Community Transition Policy, it is required that the wishes and desires of the person supported be considered and incorporated into the planning process.



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Complaint resolution. This section, while laudable, has some problems. Provider manual 2.6. The section is not clear that the process is mandatory or permissive. If it is mandatory it results in obstruction of the person's freedom of choice. If it's permissive it ought to be labeled as such.	William Barrett, ComCare	Chapter 2, Section 2.6	The Provider Manual states that filing a complaint is not a prerequisite for a person supported to have a Fair Hearing, therefore it is not mandatory.
Another place in the rights section on 2.1.a.14, it says the person shall have the right to open mail. I know that's problematic for you providers, and certainly could use more instruction in that regard, but assuming that is a right, then it says there that person or family can ask for assistance. Well, the family has no involvement unless the family is the -- unless the person gives permission for the family to be involved, and/or the family is a legal representative. I'm getting near close to the end.	William Barrick, ComCare	Chapter 2, Section 2.1.a.14	The language will be clarified to refer to person and/or legal representative. While we agree that the family may not be the legal representative, we recognize and encourage family involvement to the extent that the person supported desires.
I do want to point out several things though that are of concern. Start on 2.9.d. It's the composition of the Human Resource Committee. We talk about the chairperson as basically only serving three years, and then you can't serve again for three more. I don't get it. It's been suggested that maybe it's a way to get rid of someone that someone else doesn't want, but that's not good public policy. It makes no sense.	Donald Redden, Developmental Services of Dickson	Chapter 2, Section 2.9.d	The language has been revised to read as follows: "A community representative who serves as the chairperson." The following sentence has been deleted: " The chairperson can serve for no more than three (3) consecutive years per term, and there must be at least three (3) years between terms."

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I think someone mentioned some reservations about the new policies surrounding the Human Rights Committee. I don't understand why a limit is being placed on the number of community representatives from relevant professions. I think there is probably an upper limit in terms of the number of people you want on your human rights committee, but if you can find professionals that can really add to the discussion, raise the level of discussion, I don't think you should be discouraged from using them.	Betty McNeely, Journeys in Community Living	Chapter 2, Section 2.9.d	The language has been revised to read as follows: "A minimum of one (1) community representatives from relevant professions (e.g., clergy, law, psychology, psychiatry, behavior analysis, pharmacy, social work, counseling or medical), at least one of whom has experience with human rights issues."
Donna Goodaker, Progress in Nashville. Most of these are kind of repetitive from things that were said earlier, and they're all from chapter two, rights applicable to people with intellectual disabilities. I had a lot of concerns about the way these are written. The statement of rights is lovely to see.	Donna Goodacker, Progress	Chapter 2	Thank you. The Department appreciates the recognition.
We all support those, and sometimes the statement of rights and the reality of supporting and implementing those as written can just be like a big crash. To have intimate relationships with other people of their own choosing, that was already talked about in the first comment. That's a discussion that we have never had. It's a discussion that because of some really archaic laws on the books in Tennessee, makes it really difficult. To see that in writing is both a wonderful step in the right direction and really horrifying as a provider because it puts us in this really weird space of supporting something that is very, very complicated. There really needs to be a discussion around that, a series of discussions and a way to help providers, and people receiving support, and families, and natural support, and conservators understand how to navigate those waters in a really safe and respectful and life enhancing way.	Donna Goodacker, Progress	Chapter 2	The Department appreciates the difficulty of supporting people with intellectual disabilities to have intimate relationships. The Department is willing to engage in a dialogue on best practices which enable providers to preserve the rights of people with intellectual disabilities and comply with the intent of TN statute which protects people who may not have capacity to consent to intimate relationships.

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The second comment is 2.1.a.20, to be fairly compensated for employment. I think what we all know is that fair compensation is really up for grabs right now in terms of employing people with intellectual disabilities. That fairly needs to be defined. That's going to be I think sort of a rolling definition over the next few years as we, as a system of the department and providers, and employers, and all of the employment powers that we deal with are trying to sort that out so I just -- it made me a little nervous to see we'll be fairly compensated, because we're not really sure right now what that means.	Donna Goodacker, Progress	Chapter 2, Section 2.1.a.20	Fair is what a person without a disability would be paid for performing the same job
My third comment is around the whole paragraph of 2.4. Part of the language in that, the provider is making a promise to provide services in a way -- and I have condensed this a little bit, in a way that is in the best interest of that individual. People living with disabilities have all the same rights as everyone else has. This includes respecting the rights, life style and/or personal beliefs of the person supported and not making comments or engaging in behavior that is meant to express an opinion or persuade change. That's a really, really confusing statement because part of what we're charged with is to provide the kind of life experience and sort of stretching out of what a person may have already known to exactly persuade change and express opinions that may help someone realize a greater level of independence, as they learn what else is out there for them; that if you just said would you like to go do this, the answer might be no.	Donna Goodacker, Progress	Chapter 2, Section 2.4	The language has been revised to read as follows: "This includes respecting the rights, lifestyle and/or personal beliefs of the person supported and supporting the person's choices to the extent possible.

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I think the intent of this is to not -- for us, to not be manipulative or controlling, and I get that, but it's a very complicated statement just sort of philosophically, but it's also a very complicated statement practically because there are things that just the realities of the system, definitions of services, what we're allowed to bill for, and what a person wants aren't always even possible. So, I mean, I'm sure there's a more eloquent way to suggest this. My thought was it needs to go on to say that this can only be accomplished sometimes within the realistic and sometimes contradictory policies, funding mechanisms and, in some cases, conservatorship decisions that may impact the individual's right to choose. So again I think a conversation around that statement needs to be had with a lot of clarification.	Donna Goodacker, Progress	Chapter 2, Section 2.4	The language has been revised to read as follows: "This includes respecting the rights, lifestyle and/or personal beliefs of the person supported and supporting the person's choices to the extent possible."
Chapter 2 Section 2.1.a 15 & 16: these statements are not compatible with the supports many people need to ensure proper care and/or protection from harm.	Nancy Thiessen, ComCare, Inc.	Chapter 2, Section 2.1.a.15, Section 2.1.a.16	The Department appreciates the difficulty of supporting people with intellectual disabilities to have intimate relationships. The Department is willing to engage in a dialogue on best practices which enable providers to preserve the rights of people with intellectual disabilities and comply with the intent of TN statute which protects people who may not have capacity to consent to intimate relationships.
Chapter 2 Section 2.4.c.: this position is not compatible with Tennessee Law	Nancy Thiessen, ComCare, Inc.	Chapter 2, Section 2.4.c	We respectfully disagree.
Chapter 2 Section 2.1.a.2.: "To be fairly compensated for employment" is a broad statement. There are a lot of considerations that should/must be made regarding this issue.	Nancy Thiessen, ComCare, Inc.	Chapter 2, Section 2.1.a.2	Fair is what a person without a disability would be paid for performing the same job.

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Chapter 2 Section 2.4.a.: Agency responsible for something that the Department cannot or has not clearly defined.	Nancy Thiessen, ComCare, Inc.	Chapter 2, Section 2.4.a	We respectfully disagree. The Department provides a training module on rights of persons supported.
Chapter 2 Section 2.9.d.: The reason for the changes/restrictions in the composition of a HRC is not understood. Suggest that the requirement should be for qualified members, not the number of members or the length of their term.	Nancy Thiessen, ComCare, Inc.	Chapter 2, Section 2.9.d	The term limit has been removed. The language has been revised to read as follows: "A minimum of one (1) community representatives from relevant professions (e.g., clergy, law, psychology, psychiatry, behavior analysis, pharmacy, social work, counseling or medical), at least one of whom has experience with human rights issues."
Section 2.5.a.12. Providers cannot be responsible for making sure subcontractors and contractors for automotive mechanics, plumbers, carpenters, painters and electricians have knowledge of Title VI responsibilities. That is the job of the licensing agents for those occupations. Or is it the provider's responsibility to educate vendors. Any qualified service or contractor should be held accountable for Title VI by the licensing agent, certification board or the municipality certifying or maintaining the license.	Philip Garner, Buffalo River Services, Inc.	Chapter 2, 2.5.a	Providers are responsible for fulfilling federal Title VI requirements. Direct service means the subcontractor/entity is providing a program function/service/benefit for a member. For example, DIDD pays a plumber to install a bathtub in a waiver member's house, the plumber is accepting federal funds for that service and should comply with the civil rights laws when delivering that service to the member.

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My Comment: Section 2.4 page 2-3 contains the sentence “This includes respecting the rights, lifestyle and/or personal beliefs of the person supported and not making comments or engaging in behavior that is meant to express an opinion or persuade change.” I believe I understand and agree with the intent of the passage. However, this sentence (the last clause in particular) would preclude providers from offering any guidance toward altering legal but highly injurious behavior in persons supported. “Persuading change” is inherent in habilitation, teaching, and facilitating personal outcomes.	John Croxton, Sertoma Center	Chapter 2, Section 2.4	The language has been revised to read as follows: "This includes respecting the rights, lifestyle and/or personal beliefs of the person supported and supporting the person's choices to the extent possible."
My Comment: Section 2.1.a.14 page 2-2 contains an inexact and problematic situation for “family” absent any specification of legal status. Similar situations occur elsewhere in the manual.	John Croxton, Sertoma Center	Chapter 2, Section 2.1.a.14.	The language has been revised to read as follows: "To receive mail that has not been opened by provider staff or others unless the person or legal representative has requested assistance in opening and understanding the contents of incoming mail. "
Chapter 2 Rights Applicable To All People with Intellectual Disabilities Section 2.10.b. Comment: It would add clarification if the following statement is added to the end of section 2.10.b “Modifying an existing POA or creating a new POA with language expressly allowing a fiduciary to be paid for providing direct services is not a court order and is not sufficient for these purposes. A court order must be obtained.”	Community Network Services LLC	Chapter 2, Section 2.10.b.	The language has been revised as follows: "Modifying an existing POA or creating a new POA with language expressly allowing a fiduciary to be paid for providing direct services is not a court order and is not sufficient for these purposes. A court order must be obtained. A POA can be misused more easily, especially when a suspected vulnerable person may be the one signing over important legal duties to another person."

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Rights Applicable to All People with Intellectual Disabilities 2.10.c(9) currently reads “Advise the POA/conservator if unable to provide services in a manner that is consistent with a decision made”. It is our opinion that this language may allow for inconsistent interpretation resulting in unintended outcomes. We suggest the following alternate language: “Advise the POA/conservator if unable to provide services in a manner that is consistent with a decision made and work with the POA/conservator to identify a suitable alternative.”	Lisa Primm, Disability Law & Advocacy Center	Chapter 2, Section 2.10.c (9)	The language has been revised to read as follows: "Advise the POA/conservator if unable to provide services in a manner that is consistent with a decision made and work with the POA/conservator to identify a suitable alternative."
2.4 This includes respecting the rights, lifestyle and/or personal beliefs of the person supported and not making comments or engaging in behavior that is meant to express an opinion or persuade change. - It is not always possible to respect a person’s lifestyle and not try to persuade change. For example, we support a man who has an affinity for young girls. That is something that cannot be supported or ignored.	Donald Redden, Developmental Services of Dickson County	Chapter 2, Section 2.4.	The language has been revised to read as follows: "This includes respecting the rights, lifestyle and/or personal beliefs of the person supported and supporting the person's choices to the extent possible."
2.5.a.3. All providers must ensure that persons supported know who the Local Coordinator is and how to contact him/her. - Providers can make information available to persons supported and provide training; however, they cannot “ensure that persons supported know” anything.	Donald Redden, Developmental Services of Dickson County	Chapter 2, Section 2.5.a.3.	The language has been revised to read as follows: "All providers must ensure that persons supported are informed of who the Local Coordinator is and how to contact him/her."

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2.9.d. Composition of a HRC. All HRCs will be composed of, at a minimum, four (4) members. HRC membership shall include: 1. A community representative who serves as the chairperson. The chairperson can serve for no more than three (3) consecutive years per term, and there must be at least three (3) years between terms. - Limiting a chairperson to one three year term and banning them from serving in that capacity again for three years does not seem sensible. It is often difficult to get a good, suitable chair for the committees. Arbitrarily removing them after three years does a disservice to the intent of having the HRC protect people's rights. It is difficult to see why something like this would be proposed.	Donald Redden, Developmental Services of Dickson County	Chapter 2, Section 2.9.d.	The language has been revised to read as follows: "A community representative who serves as the chairperson." The following sentence has been deleted: " The chairperson can serve for no more than three (3) consecutive years per term, and there must be at least three (3) years between terms."
My Comment: 2.4.c Intimate Relationships The legal barriers in this case have been a barrier for providers providing support. The law states that it is illegal for individuals with Intellectual Disabilities to have sexual intercourse. The barriers to this being successful and reasonable need to be discussed and changes need to be made to the law. Intimate Relationships are achievable but not sexual intercourse. When Sexual Intercourse is brought in to the scenario it puts the provider agency in a situation of legal implication. Support that Providers can provide to individuals is limited in this area and need to be redefined.	Crystal Hicks, Emory Valley Center	Chapter 2, Section 2.4.c.	Your comment has been noted.
Maintaining Title VI compliance. – When we are required by contract and federal law to comply with Title VI, why are we writing a policy saying that we will comply with Title VI? Isn't it simpler to just say that we are required to comply with Title VI?	Donald Redden, Developmental Services of Dickson County	None	The policy is required to fulfill federal Title VI requirements.



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Chapter 2 – Rights Page 2-1 Title only includes people with intellectual disabilities, missing is developmental disabilities	Tonya Bowman, Treva Sease, Julie Sullivan, Belinda Hotchkiss, Donna DeStefano, Family Voices of TN	Chapter 2, Section 2.1	The HCBS waivers in Tennessee are targeted for people with intellectual disabilities. This provider manual is for HCBS waiver providers serving individuals with intellectual disabilities. Therefore, the chapter title is appropriate.
2.1 Consumer Rights and Responsibilities: It should say: Rights Applicable to All People with Intellectual and Developmental Disabilities (instead of Mental Retardation) Also in paragraph under 2.1:It should say accept services from the Division of Intellectual and Developmental Disabilities (instead of Mental Retardation).	Tonya Bowman, Treva Sease, Julie Sullivan, Belinda Hotchkiss, Donna DeStefano, Family Voices of TN	Chapter 2, Section 2.1.	The HCBS waivers in Tennessee are targeted for people with intellectual disabilities. This provider manual is for HCBS waiver providers serving individuals with intellectual disabilities. Therefore, the chapter title is appropriate. In addition, the phrase "mental retardation" does not appear in Chapter 2.
2.1.a number 3 -- Recommend adding sexual orientation and ethnicity.	Tonya Bowman, Treva Sease, Julie Sullivan, Belinda Hotchkiss, Donna DeStefano, Family Voices of TN	Chapter 2 Section 2.1.a.3.	The language has been added.
Rights Page 2-2, Item 16 To have intimate relationships with other people of their own choosing and page 2-4 item 2.4.c. Intimate Relations -- This has been discussed for many years and conflicts with current state law --Rape - Sexual Offenses, Tenn. Code Ann. § 39-13-501 – see additional information attached related to this, inclusive of minutes from a 2003 Division of Mental Retardation Services, East Tennessee Regional Office Sexuality Workgroup. The workgroup was established to help address this issue, and these are the final minutes of the workgroup, making recommendations to then-DMRS to:	Tonya Bowman, Treva Sease, Julie Sullivan, Belinda Hotchkiss, Donna DeStefano, Family Voices of TN	Chapter 2, Section 2.1	The Department appreciates the difficulty of supporting people with intellectual disabilities to have intimate relationships. The Department is willing to engage in a dialogue on best practices which enable providers to preserve the rights of people with intellectual disabilities and comply with the intent of TN statute which protects people who may not have capacity to consent to intimate relationships.
• Develop a statewide policy/procedure		Section 2.4.c.	

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• Review and interpret the current laws			
• Develop model guidelines			
• Provide a point person to shepherd this issue to conclusion			
Page 2-4- item 2.4.b, second paragraph – should read: “For instance, a person who wants to be his/her...” instead of “their”	Tonya Bowman, Treva Sease, Julie Sullivan, Belinda Hotchkiss, Donna DeStefano, Family Voices of TN	Chapter 2 Section 2.4.b.	Your comment has been noted. We respectfully disagree.
Page 2-6 Item 9. – recommend adding LEP to the list in line with Title VI	Tonya Bowman, Treva Sease, Julie Sullivan, Belinda Hotchkiss, Donna DeStefano, Family Voices of TN	Chapter 2, Section 2.9	Your comment is noted. Please reference DIDD policy 80.4.8 Limited English Proficiency Policy for requirements.
Page 2-17 last paragraph – very confusing and long sentence that is 7 lines in length. Recommend rewording to maintain content but make more readable. Additionally, recommend citing the referenced rule.	Tonya Bowman, Treva Sease, Julie Sullivan, Belinda Hotchkiss, Donna DeStefano, Family Voices of TN	Chapter 2 Section 2.10.d	The section has been revised to read as follows: The following applies under T.C.A. § 33-3-219 for routine medical, dental or mental health treatment of a person with a developmental disability that is not based solely on a diagnosis of mental illness or serious emotional disturbance who does not have a conservator. If the health care professional determines that the person lacks capacity (using the assessment process prescribed by rule) and there is an eligible adult who is determined to be capable of making such decisions, he or she may do so, provided that the person does not reject the proposed surrogate and adequate information is provided on which to make an informed decision.

Comment	Source	Policy/Rule/TCA Reference	DIDD Response
RE: Rights Page 2-2, Item 16 and page 2-4 item 2.4.c. Intimate Relations	Tonya Bowman, Treva Sease, Julie Sullivan, Belinda Hotchkiss, Donna DeStefano, Family Voices of TN	Chapter 2 Section 2.4.c.	Your comment has been noted.
Title 39 Criminal Offenses			
Chapter 13 Offenses Against Person			
Part 5 Sexual Offenses			
Tenn. Code Ann. § 39-13-501 (2013)			
39-13-501. Definitions. (3) "Mentally defective" means that a person suffers from a mental disease or defect which renders that person temporarily or permanently incapable of appraising the nature of the person's conduct;(4) "Mentally incapacitated" means that a person is rendered temporarily incapable of appraising or controlling the person's conduct due to the influence of a narcotic, anesthetic or other substance administered to that person without the person's consent, or due to any other act committed upon that person without the person's consent;(5) "Physically helpless" means that a person is unconscious, asleep or for any other reason physically or verbally unable to communicate unwillingness to do an act;			
39-13-503. Rape. (a) Rape is unlawful sexual penetration of a victim by the defendant or of the defendant by a victim accompanied by any of the following circumstances: (1) Force or coercion is used to accomplish the act; (2) The sexual penetration is accomplished without the consent of the victim and the defendant knows or has reason to know at the time of the penetration that the victim did not consent; (3) The defendant knows or has reason to know that the victim is mentally defective, mentally incapacitated or physically helpless; or (4) The sexual penetration is accomplished by fraud. (b) Rape is a Class B felony.			

Comment	Source	Policy/Rule/TCA Reference	DIDD Response
My Comment: 2.4.c Intimate relationships There continues to be legal barriers in this area and it remains very difficult for a provider to help a person exercise these rights, it would be nice to get more guidance in this area.	Beth Dunning, Waves, Inc.	Chapter 2, Section 2.4.c.	Your comment has been noted.
<ul style="list-style-type: none"> <li>2.1.1 15/16: these statements imply a level of freedom that does not exist across the board or even for the majority of individuals we support. Various rules and procedures rarely make it possible for people to associate privately with friends and others. Certainly natural supports can be identified and approved (although there is a serious problem with the definition), but it's definitely not the same as the spirit of the sentence.</li> </ul>	TNCO	Chapter 2, Section 2.1 15/16	We respectfully disagree. People supported have all the same rights as people who do not have disabilities. This includes the right to privacy. Further, the Department is willing to receive provider's input on addressing this issue given the forthcoming work on renewing the Statewide and Arlington Waivers.
<ul style="list-style-type: none"> <li>2.1.a.19. "To have access to transportation and environments used by the general public." The term "used by the general public" is the hard part in this statement. Providers help people have good transportation and access to the places they want to go, but it's not the same as the kind of access "the general public" has..."</li> </ul>	TNCO	Chapter 2, Section 2.1.a.19	We respectfully disagree. People supported have the same right to access transportation and environments used by the general public, as people who do not have disabilities.
<ul style="list-style-type: none"> <li>2.1.a.20. "To be fairly compensated for employment." Complicated discussion as we know. "Fairly" needs definition.</li> </ul>	TNCO	Chapter 2, Section 2.1.a.20	Fair is what a person without a disability would be paid for performing the same job.
<ul style="list-style-type: none"> <li>2.3. 2. "Describe the organization's due process procedures." Is it due process or complaint resolution?</li> </ul>	TNCO	Chapter 2, Section 2.3.2	It is due process.

Comment	Source	Policy/Rule/TCA Reference	DIDD Response
<ul style="list-style-type: none"><li>2.4. This whole paragraph is speech making and disingenuous. "...the provider is...making a promise to...provide services in a way that is in the best interest of that individual. ...people living with disabilities have all of the same rights as everyone else has. ....This includes respecting the rights, lifestyle and/or personal beliefs of the person supported and not making comments or engaging in behavior that is meant to express an opinion or persuade change." It needs to go on to say that this can only be accomplished within the realistic and sometimes contrary policies, funding mechanisms of the DIDD, and conservatorship decisions that limit an individual's right to choose. We especially dislike the phraseology of "not...meant to express and opinion or persuade change"; we do this all the time, by design, to help the people we support consider other options, have new experiences or learn new ways of thinking about things.</li></ul>	TNCO	Chapter 2, Section 2.4	Do not concur that it is speech making or disingenuous. The language has been revised to read as follows: "This includes respecting the rights, lifestyle and/or personal beliefs of the person supported and supporting the person's choices to the extent possible."
<ul style="list-style-type: none"><li>2.4.c Intimate Relationships: although there are legal barriers to supporting individual's rights in this area, we appreciate DIDD's clearly endorsing these rights. However, no one has ever addressed the problems with the state law essentially making it illegal for people with ID to have sex. There has never been a good forum to talk about the huge barriers that exist for people when it comes to having intimate relationships with other people of their own choosing.</li></ul>	TNCO	Chapter 2, Section 2.4.c.	Your comment has been noted.
<ul style="list-style-type: none"><li>2.5.a.3 Provider Requirements: providers cannot "ensure" that persons supported know who the Local Coordinator is and how to contact - should be rewritten to state "the provider has documentation that...."</li></ul>	TNCO	Chapter 2, Section 2.5.a.3	The language has been revised to read as follows: "All providers must ensure that persons supported are informed of who the Local Coordinator is and how to contact him/her."

Comment	Source	Policy/Rule/TCA Reference	DIDD Response
• 2.5.a.9. Room assignments?	TNCO	Chapter 2, Section 2.5.a.9	The language has been revised and reads as follows: "Residential providers must ensure that housing decisions and transfers are made without regard to race, color, or national origin."
• 2.7.b HIPAA and HITECH Compliance: providers would appreciate DIDD's offering training in this area.	TNCO	Chapter 2, Section 2.7.b	Your comment has been noted. Refer to the Provider Agreement, Section D. 17 for additional information on these topics.
• 2.8.f Provider Responsibilities in Maintaining Grier Compliance: it is unclear which entity is responsible for appealing the denial of service.	TNCO	Chapter 2, Section 2.8.f	The language has been revised to read as follows: "Either the ISC/CM or the provider may support the person in filing an appeal."
• 2.9 Human Rights Committees: although much improved from the original draft, the difference in responsibilities between the local and regional HR Committees is still somewhat unclear.	TNCO	Chapter 2, Section 2.9	Your comment is not specific enough to develop a response.
• 2.9.b Regional HRCs: it is not accurate to say that the regional HRC provides "oversight to the local HRCs;" this oversight is provided by regional office staff. The person who has been assigned this responsibility should be clearly stated so that local HR Committee chairs can contact them for advice/consultation. It is not, however, a good use of DIDD staff time to review all the workings of each local HR Committee down to minute detail. A broad review could be accomplished by QA staff during the annual QA review.	TNCO	Chapter 2, Section 2.9b	The language has been revised to read as follows: "Regional HRCs perform the same function as local HRCs, but they also serve to resolve human rights issues that cannot be resolved at the local level....Regional office staff are responsible for the oversight of Local HRCs and administrative support of the Regional HRC."

Comment	Source	Policy/Rule/TCA Reference	DIDD Response
<ul style="list-style-type: none"><li>2.9.e.3 Functions of the Local and Regional HRC (psychotropic medications) : further explanation of the HR Committee’s responsibilities in this area is needed. We recommend that this be removed and that the QA team review psychotropic medication consents and related requirements during the annual review.</li></ul>	TNCO	Chapter 2, Section 2.9.e 3	The Department will take under consideration the need to provide further explanation of the HRCs role in this area. The Department is not considering reassigning these responsibilities to QA.
<ul style="list-style-type: none"><li>2.9.d Composition of a HRC(1) why the limit on the terms of the chairperson? Does this also apply to the Regional HR Committees? We recommend that term limits be left up to the individual Committees. (2) why the limit on the number of community representatives from relevant professions?</li></ul>	TNCO	Chapter 2, Section 2.9.d	<p>The language has been revised to read as follows: "A community representative who serves as the chairperson." The following sentence has been deleted: "The chairperson can serve for no more than three (3) consecutive years per term, and there must be at least three (3) years between terms."</p> <p>The language has been revised to read as follows: "A minimum of one (1) community representatives from relevant professions (e.g., clergy, law, psychology, psychiatry, behavior analysis, pharmacy, social work, counseling or medical), at least one of whom has experience with human rights issues."</p>
<ul style="list-style-type: none"><li>2.10.b.2 Providers &amp; Family Members Serving as Conservators...: we would recommend that family members be allowed to provide direct services to an individual for whom they are also a fiduciary unless the court order expressly forbids them to do so. Changing the court order to explicitly allow this is expensive and time consuming.</li></ul>	TNCO	Chapter 2, Section 2.10 b	Do not concur. The situation described in the comment represents a conflict of interest.

Comment	Source	Policy/Rule/TCA Reference	DIDD Response
Not the task force, but another separate committee was developed by the Commissioner at that time, Mr. Henry, to develop a workable monthly review, and they've given us a very good monthly review. It works very well. The Provider Manual in section -- chapter three, sections 10.b and 10.c have put back in requirements that are not now in that monthly review and do not need to be in Cindy Graves, Impact Centers that monthly review. That's all I have. Thank you.	Cindy Graves, Impact Centers	Chapter 3 Sections 3.10.b, 3.10.c	<p>The language has been revised to read as follows: "Providers are responsible for completing and documenting periodic reviews, which provide a summary of the progress in meeting outcomes. Each provider is responsible for submitting periodic reviews describing progress related to the services they are responsible for providing. Ongoing evaluation of risk, via the risk assessment process, is to be incorporated in the periodic review process."</p> <p>In addition, we have removed the following language from the Provider Manual, "For example, providers are responsible for reporting progress made towards completion of any therapy-related ISP action steps or outcomes that direct support staff are responsible for carrying out, but are not responsible for reporting progress related to therapy services directly provided by the therapist or therapy assistant."</p>



Comment	Source	Policy/Rule/TCA Reference	DIDD Response
In chapter three we talk about reviews, and on 3.10.b under the periodic review, we talk about the summary of progress and meeting action steps and outcomes. We had a rather lengthy meeting with a task force that was put together by Commissioner Henry and staffed largely with Commissioner Payne where we changed that. We're not currently and have not for the last year been reporting on action steps. We're reporting on outcomes. There was a deliberate recommendation from that task force that we focus on outcomes, because that's what the system is not about. It's what it needs to be about though. We really need to focus on the outcomes that we're achieving for people. So I would ask you to change that and go back to the wording that we have in the actual form, which is standardized form that we're using across the state now for the periodic reviews. It does not include looking at action steps.	Donald Redden, Developmental Services of Dickson	Chapter 3, Sections 3.10.b, 3.10.c	<p>The language has been revised to read as follows: "Providers are responsible for completing and documenting periodic reviews, which provide a summary of the progress in meeting outcomes. Each provider is responsible for submitting periodic reviews describing progress related to the services they are responsible for providing. Ongoing evaluation of risk, via the risk assessment process, is to be incorporated in the periodic review process."</p> <p>In addition, we have removed the following language from the Provider Manual, "For example, providers are responsible for reporting progress made towards completion of any therapy-related ISP action steps or outcomes that direct support staff are responsible for carrying out, but are not responsible for reporting progress related to therapy services directly provided by the therapist or therapy assistant."</p>

Comment	Source	Policy/Rule/TCA Reference	DIDD Response
There's another requirement on the periodic reviews of any new or updated staff instructions. Basically the review is for the ISC. I'm not sure that that has any relevance at all for the ISC. Now, certainly if there are changes in staff instructions, they need to be communicated to those people who are staff, but it doesn't make any sense to put it here.I say I'm also disappointed that we, in this process, have continued to not look at the ISP. I would describe that as a dysfunctional document. Some of you may find it useful. I don't, and I think we are in terrible need of revising it. We almost should start over by throwing it out and starting from scratch.	Donald Redden, Developmental Services of Dickson	Chapter 3, Sections 3.10.c	New or updates to staff instructions have the potential to impact development of the ISP. Therefore, this information is relevant to ISCs. Your comment regarding the functionality of the ISP is noted.
Chapter 3 Individual Support Planning and Implementation. Section 3.8. It would be helpful to have a due to date to the Provider for the draft of the ISP. The Provider needs time to adequately review and provide feedback to the ISC prior to the effective date of the ISP.	Jennifer Enderson, Emory Valley Center	Chapter 3, Section 3.8	When the Titan Solution is fully implemented, the provider will have real-time access to the ISP including any drafts or proposed amendments.
3.4. The Circle of Support. Because the mission of the COS is to support the person in developing an ISP that will guide the achievement of the person's outcomes, the person may change the membership of the group at any time. At a minimum, the COS includes the person supported, his/her legal representative, the person's family member(s), ISC or CM, and any providers of supports and services the person receives. - While there is the statement of who minimally composes the COS, there is also the statement that the person may change the membership of the group at any time. This seems inconsistent with the minimum composition of the group. Can the person remove the provider of supports and services? This needs clarification.	Donald Redden, Developmental Services of Dickson County	Chapter 3, Section 3.4.	Yes, the person has the authority and responsibility to determine the composition of the circle and could remove the provider from the COS. The following language has been revised to read: "For example, the COS includes the person supported, his/her legal representative, the person's family member(s), ISC or CM, and any providers of supports and services the person receives. Friends, advocates, and all other non-paid supports are included at the invitation of the person supported."

Comment	Source	Policy/Rule/TCA Reference	DIDD Response
3.7. Timelines for Completion and Review of the ISP. When a person is enrolled in services, the initial ISP must be developed within sixty (60) calendar days from the date of enrollment. The date of enrollment for people enrolled in a Medicaid waiver is the date that services initially began as shown on the DHS Form 2362 or as otherwise determined by TennCare. The ISP must be reviewed at least monthly, as specified in TennCare rules. - Please specify which TennCare rules are referenced here.	Donald Redden, Developmental Services of Dickson County	Chapter 3, Section 3.7.	The requirement is specified in TennCare Rule and the HCBS waiver. The language has been revised to read as follows: "The ISP must be reviewed at least monthly by the ISC, as specified in TennCare Rule 1200-13-01-.25, -.28 and -.29(7)(b)(1) and the 1915 (c) HCBS waiver, as approved by the Centers for Medicare and Medicaid Services. "
3.10.b. Periodic Reviews. Providers are responsible for completing and documenting periodic reviews, which provide a summary of the progress in meeting action steps and outcomes. - The standard form which has been in use for the last year does not include a summary of the progress in meeting action steps. Rather, it focuses on outcomes. This is a state-sanctioned form which should be continued.	Donald Redden, Developmental Services of Dickson County	Chapter 3, Section 3.10.b.	The language has been revised to read as follows, "Providers are responsible for completing and documenting periodic reviews, which provide a summary of the progress in meeting outcomes." In addition, we have removed the following language from the Provider Manual, "For example, providers are responsible for reporting progress made towards completion of any therapy-related ISP action steps or outcomes that direct support staff are responsible for carrying out, but are not responsible for reporting progress related to therapy services directly provided by the therapist or therapy assistant."

Comment	Source	Policy/Rule/TCA Reference	DIDD Response
3.10.c. Basic Requirements for Contents of Periodic Reviews. Reviews must include: 4. Any new or updated staff instructions. – This does not need to be a part of the periodic review that is sent to the ISC. New or updated staff instructions should occur as needed, not just as a part of a monthly review process.	Donald Redden, Developmental Services of Dickson County	Chapter 3, Section 3.10.c.	New or updates to staff instructions have the potential to impact development of the ISP. Therefore, this information is relevant to ISCs.
Chapter 3: Individual Support Planning and Implementation. 3.2. "The ISP clearly describes the needs of the person and the services and supports required to meet those needs to include third party payer services that are utilized." We will need some guidance on just what will be needed to satisfy this. We have noted only in the most general terms when an individual has received third party payer services in the past (such as Voc Rehab assessments); what will be expectation be now on this? If the individual has received home health therapies (PT, OT, nursing) at some time during the year, will we need to update the ISP to reflect this?	TASC (Tennessee Alliance of Support Coordinators)	Chapter 3, Section 3.2	The ISP is not intended to justify the need for third party payor services. The ISP describes all of the services and supports required to support the person to have the life they desire, regardless of funding source. Yes, if the person has received home health therapies (PT, OT, nursing) at some time during the year, the ISP should be updated to reflect those services.

Comment	Source	Policy/Rule/TCA Reference	DIDD Response
3.10. Provider Responsibilities for Implementing the ISP. Can there be clarification in this section to indicate when a provider is required to implement an ISP amendment? Is there a period of time that allows the provider to receive the amendment, train staff, and get it implemented once it's received? For example, often amendments are submitted with dates that are immediate. What timeframes do providers have, upon receipt of the amendment, to have it implemented?	TASC (Tennessee Alliance of Support Coordinators)	Chapter 3, Section 3.10	The provider is required to implement all ISP amendments that effect the service being delivered by the provider. The specific timeframe for implementation depends on the nature of the amendment, for example, environmental modifications may require weeks to complete. Or, direct support staff may need to be trained to implement a specific set of staff instructions. Due to the individualized nature of services and supports, the Department decided not to assign a specific timeframe for implementing ISP amendments. Generally, the timeline for implementation should be reasonable given the nature of the amendment. There is nothing that precludes the ISC and the provider from discussing the amendment and agreeing to a timeline for implementation. This would be considered appropriate coordination and collaboration of services and supports.
3.10.c. Basic Requirements for Contents of Periodic Reviews 4. Any new or updated staff instructions - There is not a place for this information on the new periodic review format.	TASC (Tennessee Alliance of Support Coordinators)	Chapter 3, Section 3.10.c	The Department will revise the form to include a space for an update.

Comment	Source	Policy/Rule/TCA Reference	DIDD Response
3.10.c. Basic Requirements for Contents of Periodic Reviews: staff instructions should not be part of the periodic review that is sent to the ISC/CM	Beth Dunning, Waves, Inc.	Chapter 3, Section 3.0.c.	New or updates to staff instructions have the potential to impact development of the ISP. Therefore, this information is relevant to ISCs.
3.8 When is a draft due to the Provider agency? The agency should be able to sign off on the ISP before it becomes final because sometimes it includes services and activities that the Provider has not agreed to perform.	Beth Dunning, Waves, Inc.	Chapter 3, Section 3.8.	When the Titan Solution is fully implemented, the provider will have real-time access to the ISP including any drafts or proposed amendments.
My Comment: 3.7 Timelines for completion and Review of the ISP. A better understanding and clarification in the provider manual about when the draft review should be available to ensure that the review has been completed with all entities prior to the expiration of the ISP. This would assist everyone involved in the development the opportunity to provide feedback and comments on the ISP prior to expiration. Also allowing a timeframe for individuals to develop and work with the Person Centered Tools in the planning process.	Crystal Hicks, Emory Valley Center	Chapter 3, Section 3.7.	When the Titan Solution is fully implemented, the provider will have real-time access to the ISP including any drafts or proposed amendments.
3.7 Timelines for completion and Review of the ISP. Clearer explanation of what review of the ISP monthly determined by Tenn Care is referencing. Is this the monthly review?	Crystal Hicks, Emory Valley Center	Chapter 3, Section 3.7.	This is the monthly review. The requirement is specified in the HCBS waiver. The language has been revised to read as follows: "The ISP must be reviewed at least monthly by the ISC, as specified in TennCare Rule 1200-13-01-.25, -.28 and -.29(7)(b)(1) and the 1915 (c) HCBS waiver, as approved by the Centers for Medicare and Medicaid Services. "

Comment	Source	Policy/Rule/TCA Reference	DIDD Response
3.5 The Role of Person Centered Thinking Skills and tools in the ISP Planning Process. I was very pleased to see the Person Centered Thinking tools and techniques outlined in the Draft Provider Manual. However, with the Person Centered Thinking Tools comes training for all staff in this area of support to individuals. I would want to know what type of training initiatives would be taken by DIDD to ensure that there are Providers trained in the Person Centered Thinking and allow opportunities for Providers to have trainers identified for the process at their Provider Agencies. This would open many training opportunities for Providers to train in the beginning of employment instead of waiting months sometimes a year or more for staff to be trained.	Crystal Hicks, Emory Valley Center	Chapter 3, Section 3.5.	DIDD offers regional monthly Person Centered Thinking training to interested agencies. Training information can be accessed on the DIDD web site <a href="http://www.tn.gov/didd/training/index.shtml">http://www.tn.gov/didd/training/index.shtml</a>
<ul style="list-style-type: none"><li>We strongly recommend that a work group be established to review and revise the entire ISP instrument and process. This should include direct service providers and information shared throughout the system.</li></ul>	TNCO	Chapter 3	Your comment has been noted.
<ul style="list-style-type: none"><li>We applaud DIDD's discontinuing the confusing distinction between the COS and the Planning Team and appreciate the recognition of the providers' membership in the COS.</li></ul>	TNCO	Chapter 3, Section 3.4	Thank you.

Comment	Source	Policy/Rule/TCA Reference	DIDD Response
<ul style="list-style-type: none"><li>It is stated that the person may change the membership of the group at any time, but the “minimum” participants are listed. Which is it?</li></ul>	TNCO	Chapter 3, Section 3.4	The person has the authority and responsibility to determine the composition of the circle. The following language has been revised to read: "For example, the COS includes the person supported, his/her legal representative, the person’s family member(s), ISC or CM, and any providers of supports and services the person receives. Friends, advocates, and all other non-paid supports are included at the invitation of the person supported."
<ul style="list-style-type: none"><li>3.5 The Role of P-C Thinking....: Why is DIDD promulgating undefined terms (Good Day/Bad Day, etc.)? They are included on the DIDD website. This is sufficient.</li></ul>	TNCO	Chapter 3, Section 3.5	It is appropriate to identify reference tools in the provider manual.
<ul style="list-style-type: none"><li>3.7 Timelines for Completion and Review of the ISP: “The ISP must be reviewed at least monthly, as specified in TennCare rules.” Need to reference specific TennCare rules.</li></ul>	TNCO	Chapter 3, Section 3.7	The requirement is specified in TennCare Rule and the HCBS waiver. The language has been revised to read as follows: "The ISP must be reviewed at least monthly by the ISC, as specified in TennCare Rule 1200-13-01-.25, -.28 and -.29(7)(b)(1) and the 1915 (c) HCBS waiver, as approved by the Centers for Medicare and Medicaid Services. "



Comment	Source	Policy/Rule/TCA Reference	DIDD Response
<ul style="list-style-type: none"><li>3.8 Effective Date of the ISP: when is the draft due to provider from the ISC? When must the approved ISP be returned to the provider? The ISP must be implemented on the implementation date and often modification is needed. The ISP MUST be returned to the provider in time to accomplish this.</li></ul>	TNCO	Chapter 3, Section 3.8	When the Titan Solution is fully implemented, the provider will have real-time access to the ISP including any drafts or proposed amendments.
<ul style="list-style-type: none"><li>3.9 ISP Amendments: we appreciate the clarity of this section. However, some QA surveyors have required that DSP staff be trained in all ISP changes. Retraining requirements need to be clarified.</li></ul>	TNCO	Chapter 3, Section 3.9	Refer to chapter 6, section 6.4.b. Information and Training Specific to the Person, for pertinent training requirements.
<ul style="list-style-type: none"><li>3.10 Provider Responsibilities for Implementing the ISP: providers are responsible for implementing therapy plans, but, because therapists are not paid to attend the COS meetings, there is little discussion about the appropriateness of therapy plans by the COS. This can result in providers being required to implement plans that are inappropriate and unhelpful.</li></ul>	TNCO	Chapter 3, Section 3.1	The provider should inform the ISC/CM and or therapy provider if they believe the therapy plan is inappropriate or unhelpful.

Comment	Source	Policy/Rule/TCA Reference	DIDD Response
<ul style="list-style-type: none"><li>3.10.b Periodic Reviews: “which provide a summary of the progress in meeting action steps and outcomes.” The current periodic reviews do not include a summary of progress in meeting action steps. Is the state-sanctioned document being changed? We oppose this change. “Evaluation of risk management strategies is to be incorporated into the periodic review process.” What does this mean? Who is going to interpret this?</li></ul>	TNCO	Chapter 3, Section 3.10b	<p>The language has been revised to read as follows: "Providers are responsible for completing and documenting periodic reviews, which provide a summary of the progress in meeting outcomes. Each provider is responsible for submitting periodic reviews describing progress related to the services they are responsible for providing. Ongoing evaluation of risk, via the risk assessment process, is to be incorporated in the periodic review process."</p> <p>In addition, we have removed the following language from the Provider Manual, “For example, providers are responsible for reporting progress made towards completion of any therapy-related ISP action steps or outcomes that direct support staff are responsible for carrying out, but are not responsible for reporting progress related to therapy services directly provided by the therapist or therapy assistant.”</p>
<ul style="list-style-type: none"><li>3.10.c Basic Requirements for Contents of Periodic Reviews: (4) “any new or updated staff instructions” - this is not part of the periodic review, nor should it be. Staff instructions should not be something that is sent to the ISC/CM, rather it is directed at staff.</li></ul>	TNCO	Chapter 3, Section 3.10.c	<p>New or updates to staff instructions have the potential to impact development of the ISP. Therefore, this information is relevant to ISCs.</p>

Comment	Source	Policy/Rule/TCA Reference	DIDD Response
Freedom of choice is the second major issue. Freedom of choice is an important Medicaid right which is missing from the list of rights, C.2.1.a. When discussed in the manual at 4.6.c, freedom of choice is largely presented as a choice between ICF I.D. and waiver. That is, in fact, one freedom of choice. However, in fact, freedom of choice applies to choosing among all qualified Medicaid providers, whether an ISC, whether a doctor, whether a therapist, whether a pharmacy or an agency, is a requirement of federal law. The right to choose a provider is not dependent on review by someone else and not required to be justified. A person can choose to change providers for any reason. That is not illegal. It can be because he or she does not trust a provider, or does not like the color of the house, and if you want to put this in context, this is the same as a Medicaid recipient choosing a doctor. If they don't feel comfortable with that doctor, they will get another doctor. They have that absolute right.	William Barrick, ComCare	Chapter 2, Section 2.1.a Chapter 4, Section 4.6.c	We respectfully disagree. Chapter 2 describes all human rights and chapter 4 is specific to Medicaid waiver services. At section 4.6.c, the Provider Manual reads as follows “Freedom of Choice also means that a person has the right to select any qualified provider that is available, willing, and able to provide the services needed.” As regards the right to choose providers is not contingent upon review, per the appropriately approved Community Transition Policy, it is required that the wishes and desires of the person supported be considered and incorporated into the planning process.

Comment	Source	Policy/Rule/TCA Reference	DIDD Response
The person has the absolute right to choose his or her provider. Now DIDD -- in section 4.8 states that -- and by the way, that right needs to be listed in the list of rights. Section 4.8 states in part, a change -- this is a quotation. "A change in ICS provider must be in the interest of the person in accordance with policy 80.4.7, Community Transition." This reference to the transition policy incorporates that policy which violates federal law in several respects. Specifically, impairs a person's absolute right to freedom of choice of providers. Second, because no other Medicaid recipient of any kind of class is subject to this review, it's a discrimination against a person with intellectual disabilities. That policy violates federal law in several respects. The same policy violates Tennessee law. The same sentence refers to DIDD determining the person's best interest. DIDD can design a program for the best interest of the recipients. That's their job.	William Barrett, ComCare	Chapter 4, Section 4.8 Policy 80.4.7 Community Transition	The language has been clarified to read as follows: "A change in ISC provider must be in accordance with policy <u>80.4.7 Community Transition</u> ." We disagree that policy 80.4.7 Community Transition violates the law. However, revisions were needed to this policy and a group is currently drafting said revisions.
DIDD does not make and is not empowered to make best interest decisions for people, or they would be the conservator, or the person's rights would have to be removed. So DIDD cannot, in their best interest, decide who the ICS is supposed to be. So that's the problem in the policy. Again they have no authority to determine the best interest of an individual person. That authority is the sole right of the person or the conservator. The attempt to exercise this right is to conquer a Tennessee law or judicial order and usurps the person's freedom of choice			

Comment	Source	Policy/Rule/TCA Reference	DIDD Response
My name is Lee Chase, Dawn of Hope, Incorporated, and also on behalf of TENNCO. Just to echo a couple of remarks from my TENNCO colleagues and then just some general comments, chapter four, Support Coordination, we would recommend a statement that clarifies the ISC agencies be financially responsible for any actions or lack of action that it was responsible for completing that results in a loss of revenue for the service provider. This is a more frequently occurring incidence that we certainly understand DIDD's position relative to waiver requirements and not being able to make those adjustments, but we do feel that that message does need to be clearly sent; that both the initiator and the implementer of plans have specific responsibilities.	Lee Chase, Dawn of Hope Inc. and TNCO	Chapter 4, Section 4.10	<p>The Department formally sanctions ISC agencies that fail to submit documents timely, e.g., evaluations/reevaluations for level of care and ISP amendments. The DIDD Office of Business Services works with provider agencies, on a case-by-case basis, to remediate these situations when they arise. Remediation can usually be accomplished through the late rebills/adjustment process. At 4.6, the language has been revised to read as follows: ISC agencies may be sanctioned by DIDD for failing to submit documents required for timely authorization of the ISP or ISP amendments.</p> <p>At 4.10, the language has been revised to read as follows: ISC agencies may be sanctioned by DIDD for failing to timely submit the documents that are required for re-evaluation and re-determination of Medicaid eligibility.</p>

Comment	Source	Policy/Rule/TCA Reference	DIDD Response
Chapter 4 Support Coordination and Case Management Section 4.2 Questions “All ISC’s must receive ongoing supervision by someone who has a Bachelor’s degree in a human services field” disqualifies an existing supervisor with over 20 years of professional experience with DIDD and providers. She previously qualified under the prior long held requirement of “Support coordinators who do not have a Bachelor’s degree in a human services field must be supervised by someone who does meet that qualification.”Question: Will existing supervisors be grandfathered in under the prior qualification requirement?	Community Network Services LLC	Chapter 4, Section 4.2	The language consistent with the 1915(c) HCBS Waiver approved by the Centers for Medicare and Medicaid Services which reads as follows: "The Support Coordinator must have a Bachelor's degree from an accredited college or university in a human services field; or a Bachelor's degree from an accredited college or university in a non-related field and one year of relevant experience; or an associate degree plus two (2) years of relevant experience; or four (4) years of relevant experience. Relevant experience means experience in working directly with persons with intellectual, developmental, or other types of disabilities or mental illness. Support coordinators who do not have a Bachelor's degree in a human services field must be supervised by someone who does meet that qualification."
Section 4.2.b. Comment Previously “Board members and staff” of ISC agencies were prohibited from serving on the staff or governing board of agencies providing waiver services. The new policy limits that prohibition to just Independent Support Coordinators. As written this will allow board members and management staff of an isc agency to be affiliated or employed with a direct service provider, which would be a conflict of interest with the independent role of an ISC agency and will allow for the possibility of undue influence.	Community Network Services LLC	Chapter 4, Section 4.2.b.	The language has been revised to read as follows: "Independent support coordinators, ISC agency management staff and board members are prohibited from being on the staff or serving on the board of agencies providing waiver services."

Comment	Source	Policy/Rule/TCA Reference	DIDD Response
Section 4.6.e. Comment This section should include an exception relative to people residing in ICF/DD homes.	Community Network Services LLC	Chapter 4, Section 4.6.e	The provider manual is applicable to HCBS waiver services and is not applicable to ICF services.
Chapter 4: Support Coordination and Case Management, 4.3. changes the qualifications for ISCs in such a way as to increase the regulations imposed on ISC provider agencies who employ ISCs as follows: First, it imposes an additional qualifier of “professional” for the experience required in relation to the ISC candidate’s experience working directly with persons with IDs or other DDs. For the past 17 years, the requirement has been for candidates to simply have “experience” in working with persons with disabilities. The added qualifier of “professional” is not defined and the reason for interjecting it in this iteration of the Provider Manual has not been stated and is not clear. Is there now an expectation to distinguish a candidate’s experiences as “professional” versus non-professional?Secondly, the requirement until now always has been to have ISCs who do not hold a bachelor’s degree in a human service field to be supervised by someone who does hold a bachelor’s degree in human services.	TASC (Tennessee Alliance of Support Coordinators)	Chapter 4,Section 4.3	No, the intention was not to distinguish between professional and non-professional experience. The language has been revised for consistency with the 1915(c) HCBS Waiver approved by the Centers for Medicare and Medicaid Services to read as follows: "Support Coordinators who do not have a Bachelor’s degree in a human services field must be supervised by someone who does meet that qualification."

Comment	Source	Policy/Rule/TCA Reference	DIDD Response
This revision (see 4.3., second paragraph) proposes requiring all ISCs (irrespective of their degreed or non-degreed status) to be supervised by someone who holds a bachelor's degree in a human service field. The consequence of this small change in wording is significant. This change places ISC agencies in the position of demoting highly-experienced, successful, but non-degreed employees who have been supervising teams of ISCs for 15 or more years. These non-degreed managers supervise ISCs who may have degrees, but also who may have relatively much less experience and skill in providing ISC services than their non-degreed supervisors. For example, under this new regulation, the DIDD is asserting that a just-graduated, 21-year old is more suited to supervise other ISCs by simple virtue of his/her bachelor's degree than a seasoned, extremely knowledgeable, highly experienced, but non-degreed supervisor who has 20 or more years of experience in the field of IDs.	TASC (Tennessee Alliance of Support Coordinators)	Chapter 4,Section 4.3	The language has been revised for consistency with the 1915(c) HCBS Waiver approved by the Centers for Medicare and Medicaid Services to read as follows: "Support Coordinators who do not have a Bachelor's degree in a human services field must be supervised by someone who does meet that qualification."
If an employee holds a requisite bachelor's degree, how and by whom that employee is supervised should be irrelevant to the DIDD in assuring that the defined ISC services are adequately delivered. This change provides no benefit to the persons supported by ISC providers and places an unnecessary burden on ISC provider agencies.	TASC (Tennessee Alliance of Support Coordinators)	Chapter 4,Section 4.3	The language has been revised for consistency with the 1915(c) HCBS Waiver approved by the Centers for Medicare and Medicaid Services to read as follows: "Support Coordinators who do not have a Bachelor's degree in a human services field must be supervised by someone who does meet that qualification."



Comment	Source	Policy/Rule/TCA Reference	DIDD Response
4.6.d. Assistance with Obtaining and Coordinating Services, The ISC/CM must arrange for services to follow the person when: 5. end of statement in parentheses states “community system to hospital.” We think that this is meant to be the other way around. The ISC would arrange services when the person is moving from the hospital to a community system.	TASC (Tennessee Alliance of Support Coordinators)	Chapter 4, Section 4.6.d.	The ISC/CM must arrange for services or supports to follow the person when there is a change in the service setting.
4.7. requires the use of specific documentation forms (monthly and annual) for ISC services. However, it does not reference how or where the forms can be found so that ISC providers can discern the content of the forms to be used.	TASC (Tennessee Alliance of Support Coordinators)	Chapter 4, Section 4.7	A web link to the page where the forms are published has been inserted into the manual.
4.8. The section is worded incorrectly when it says “to initiate selection of a new provider, either the current ISC or the DIDD Regional Office may be notified of the request to change providers.” This needs to say RO only.	TASC (Tennessee Alliance of Support Coordinators)	Chapter 4, Section 4.8	The language has been revised to read as follows: "Persons receiving state case management services or their legal representative can request a change in the assignment of their individual CM at any time by contacting the DIDD Regional Office. To initiate selection of a new ISC within the current agency then the ISC agency should be contacted. "
4.6.j Initiating Corrective Actions: The ISC should seek mediation help for issues between the family and the provider.	Beth Dunning, Waves, Inc.	Chapter 4, Section 4.6.j.	Concur. ISCs may seek assistance from the DIDD Regional and Central Offices to address issues. If that is not sufficient, ISCs may use the complaint resolution process as described in chapter 2.6.a.

Comment	Source	Policy/Rule/TCA Reference	DIDD Response
We would recommend a statement saying that the ISC Agency is financially responsible for any actions or lack of action that it was responsible for completing that results in a loss of revenue for a service provider.	TNCO	Chapter 4, Section 4.6.e	The Department formally sanctions ISC agencies that fail to submit documents timely, e.g., evaluations/reevaluations for level of care and ISP amendments. The DIDD Office of Business Services works with provider agencies, on a case-by-case basis, to remediate these situations when they arise. Remediation can usually be accomplished through the late rebills/adjustment process. At 4.6, the language has been revised to read as follows: ISC agencies may be sanctioned by DIDD for failing to submit documents required for timely authorization of the ISP or ISP amendments. At 4.10, the language has been revised to read as follows: ISC agencies may be sanctioned by DIDD for failing to timely submit the documents that are required for re-evaluation and re-determination of Medicaid eligibility.
4.5 Caseload Assignments to ISCs: what is the caseload limit for state case managers?	TNCO	Chapter 4, Section 5	State case management is not a waiver service therefore the caseload requirements is not described in the provider manual.
4.5.b. Exceeding Maximum Caseloads – “and” should be placed between items 1 and 2 for clarity	TNCO	Chapter 4, Section 5.b	Your comment is noted. We respectfully disagree.

Comment	Source	Policy/Rule/TCA Reference	DIDD Response
4.6.j Initiating Corrective Actions: we could find no reference to an ISC's responsibility to seek mediation help for issues between the family and the provider.	TNCO	Chapter 4, Section 6.j	Mediation is not a requirement in this circumstance. However, ISCs may take advantage of the conflict resolution process described in chapter 2, section 2.6.a

Comment	Source	Policy/Rule/TCA Reference	DIDD Response
One of the comments I wanted to make is that the Regulatory Relief Task Force has done much work. I'm not on that task force, but I do admire the work that they've done. They've worked very hard for several years now in getting regulatory relief for providers so that they can concentrate on providing services at the least cost. Many unfunded mandates increase costs and services, and the task force was able to get a lot of concessions and a lot of things reduced. This manual has put some of those things back in, and I strongly recommend that we take a look at what the task force has achieved and go back in and remove those things from the Provider Manual. Just to name a few things, the multiple management, supervision, self-assessment, quality improvement and plans that are required in chapter five. Also, the health care oversight and PSR forms that are still required in the comprehensive record.	Cindy Graves, Impact Centers	Chapter 5 Chapter 10	While many recommendations were made by the Regulatory Relief Task Force, not all recommendations were approved by the Department.  Inclusion of the Physical Status Reviews and Health Care Oversight Forms in the Provider Manual was an oversight, they have been removed.
Providers should also be able to determine how we train our board members. In item -- chapter five, item 8.a.7, the board itself is required to give board orientation. Generally that's not done by the board itself, but by someone they designated. We should be able to do that. We should be able to develop our quality improvement plans the way we feel they need to be developed instead of the prescriptive way that is listed here.	Cindy Graves, Impact Centers	Chapter 5, Section 5.8.a.7	The language has been revised to read as follows, "New board members must be oriented within ninety (90) calendar days of their appointment to include..." In addition, Quality improvement plans are one aspect of a Protection from Harm system that has been recognized for its effectiveness. For this reason, the components are defined.
In chapter five -- well, let me just say I'm disappointed that we didn't get rid of some of those plans that I thought we had agreed weren't necessarily something -- well, I will say as a provider they're not for me. They're for somebody else, and I hope they serve them well.	Donald Redden, Developmental Services of Dickson	Chapter 5	Your comment is noted.

Comment	Source	Policy/Rule/TCA Reference	DIDD Response
In 5.12 there are a number of items about changes in provider information. If we have a single number to call that in to, that would be great. We don't currently -- the current manual says we will call someone, but it doesn't say who, and quite frankly, we're dealing with at least three different entities that we have to provide information to: The Central Office, the regional office, and then the protection from harm folks. They've actually started asking for it, which has been very helpful, I think, but single numbers we -- the state is all -- the department is one entity now. I wish you could communicate and maybe we'll be able to.	Donald Redden, Developmental Services of Dickson	Chapter 5, Section 5.12	Footnote with contact information has been moved in the introduction sentence of this section for clarity and ease of identification. Email is the Departments preferred method of receiving change notifications. Designated staff monitor this email account daily.
I share everyone's -- or many of our -- we're feeling very upset about the fact that many of the plans we thought had been eliminated through the regulatory relief task force, or at least downsized in importance and content, they're still there. Plus, there's been additional things added.	Betty McNeely, Journeys in Community Living	Chapter 5	While many recommendations were made by the Regulatory Relief Task Force, not all recommendations were approved by the Department.
I'm upset. Particularly don't like the provider self-assessment. It's an added burden, and it appears to me it has been added because DIDD is involved in CQL accreditation. Whether or not it's a useful thing to do is something that needs to be discussed.	Betty McNeely, Journeys in Community Living	Chapter 5	Provider self-assessment is not a new requirement, reference chapter 6, section 6.6.c Provider Self Assessment, of the current provider manual. Self Assessment was not added due to DIDD's involvement with CQL accreditation.

Comment	Source	Policy/Rule/TCA Reference	DIDD Response
I am going to recommend the addition of a procedure. I hate to ruin my reputation, but for those of us that provide day services with another provider providing residential services or vice-versa, we have a lot of -- Sometimes there can be some difficulty in terms of communication, and I think the department really should require some form of communications between the two agencies so that we can better care for the folks that we're working with.	Betty McNeely, Journeys in Community Living	Chapter 5 Chapter 10, Section 10.15	Persons supported in the DIDD waiver programs receive services from multiple providers. Therefore it is essential that providers communicate with one another. One example of communication involves coordinating clinical and therapeutic services, reference Chapter 8, Section 8.4(2) regarding scheduling appointments and 8.8 regarding the primary provider's responsibility for hospitalization. Another example of this communication is exchanging records, reference Chapter 10, Section 10.15. To ensure integration of services, communication must occur between providers who may be involved with providing services and supports to the same person. While it is possible to require that communication between providers occur in specific circumstances, it is not possible to define all the circumstances under which communication should occur between providers. The Department encourages providers who are having difficulty communicating with another provider to contact the person's ISC/CM for assistance with coordinating services and if that does not suffice, to contact the DIDD Regional Office for assistance in mediating the issue.

Comment	Source	Policy/Rule/TCA Reference	DIDD Response
Also, to echo the comments about self- assessment, provider self-assessment, providers today have been tremendously stretched with declining resources, and the requirements that we have to place on our staff become increasingly burdensome. We know that DIDD certainly has a very adequate assessment process in place for providers, and we would suggest minimizing the self-assessment.	Lee Chase, Dawn of Hope Inc. and TNCO	Chapter 5	Your comment has been noted.
Chapter 5 – General Provider Requirements. Recommend eliminating the required plans such as the Provider Management Plan, the Supervision Plan, and the Internal QI Plan and the Provider Self-Assessment. Our agency has procedures to address and track issues. Trying to fit them into a proscribed format doesn't work well. Comment: When DIDD requires a format, it is DIDD's plan, not the agency's plan.	Nancy Thiessen, Comcare, Inc.	Chapter 5	Your comment has been noted.
Chapter 5 Section 5.3 Required Provider Policies. Same comment about required policies. When DIDD requires a policy, it is a DIDD policy, not the agency's policy. However, if required policies remain, it would be extremely helpful if they could all be listed in one place in the manual.	Nancy Thiessen, Comcare, Inc.	Chapter 5, Section 5.3	The language has been revised to include required policies that are discussed in other places in the provider manual, with a reference to the appropriate section.
Chapter 5 General Provider Requirements. Section 5.8.a.7. Agency should be able to determine who will orient new board members. Current practice is to have a ED/Director complete this.	Jennifer Enderson, Emory Valley Center	Chapter 5, Section 5.8.a.7.	The language has been revised to read as follows: "New board members must be oriented within ninety (90) calendar days of their appointment to include..."

Comment	Source	Policy/Rule/TCA Reference	DIDD Response
Chapter 5 General Provider Requirements Section 5.2.g Comment Previously, this section targeted criminal activity with relevant examples such as “fraud misappropriation of funds, breach of fiduciary duty” that would disqualify staff. As written. This clause will require the permanent removal of staff with no recourse for ANY criminal conviction, regardless of how minor or how irrelevant to their duties. For example, a house manager convicted of “trespassing” during an organized protest on his/her own time would be forever prohibited. Recommendation would be to include a path for obtaining exceptions with DIDD approval in extenuating circumstances.	Community Network Services LLC	Chapter 5, Section 5.2.g.	Provider may request an exemption to this requirement in accordance with DIDD policy 30.1.6 Exemption Process. Background checks should be completed as outlined in the Provider Agreement.
We applaud the Department’s enhanced protection of persons served by “requiring providers to confirm potential employees are not listed on the Office of Inspector General’s List of Excluded Individuals/Entities” in General Provider Requirements 5.2.b.	Lisa Primm, Disability Law & Advocacy Center	Chapter 5, Section 5.2.b.	The Department appreciates the recognition.



Comment	Source	Policy/Rule/TCA Reference	DIDD Response
5.3. Required Provider Policies 4. Facilitating and supporting natural support systems. - It is difficult to know how to respond to a policy concerning natural supports. We cannot tell if you are for them or opposed to them. You say elsewhere that the waiver will not pay for natural supports and most of this manual is about the waiver services. This would appear to be a “Catch 22”, if we write a policy saying that we will encourage and rely on natural supports, we are saying that we will not legitimately bill waiver services, yet we must provide all of the waiver services that are approved for the person. We need to have further discussion on natural supports before this requirement is inserted into the Provider Manual. While we have always tried to facilitate and support natural supports, there is not a clear indication from DIDD or TennCare that they believe and support the same.	Donald Redden, Developmental Services of Dickson	Chapter 5, Section 5.3	The Department encourages helping persons supported to develop and maintain natural supports. In the Introduction, Section IN.3, the last sentence in the paragraph states " Effective integration of services offered through the programs described in this manual with external services and natural supports is a goal that the state will continue to work toward". The Department envisions that persons supported are treated in a holistic manner, which means that they are encouraged to develop and maintain relationships with people who are not paid providers. The Department's stance is that natural supports are essential for the quality of life of persons supported through the waivers. Persons supported should have the same opportunity to build and maintain relationships with people in the community (this includes other persons supported through the waiver), as do people who do not have disabilities. Given that persons supported have relationships with family, friends, co-workers, etc., the purpose of the provider's policy is to describe how the provider will support the involvement of natural supports in the life of the person supported. For example, the use of unpaid or natural supports in the workplace is encouraged.

Comment	Source	Policy/Rule/TCA Reference	DIDD Response
			Reference section 11.2.a. which describes expectations regarding utilizing natural supports in the provision of day services. The provider's policy should be consistent with DIDD policy on this topic and the provider would not bill for services provided by a natural support. Similarly, the provider would not attempt to bill for other services provided by natural supports, e.g., transporation to the mall or to religious services. Even though the provider is responsible for delivering waiver services as described in the ISP, the person can be served or supported to experience or acomplish things in life that are not paid waiver services. This is where natural supports come into play. Finally, it has never been the intention or policy of DIDD or TennCare to pay natural supports for services that would be provided at no cost to the person.
5.7. The Provider Management Plan. 3. A description of service(s) offered by the provider. – Although this has been around for years, what/who is it for? Providers know what services they provide and they provide them as prescribed in the waiver. This is not useful information.	Donald Redden, Developmental Services of Dickson	Chapter 5, Section 5.7	We respectfully disagree. The information is useful for the person using services and their legal representatives, as well as other external entities.

Comment	Source	Policy/Rule/TCA Reference	DIDD Response
5.8.a. Requirements for Not-For-Profit Provider Boards of Directors.7. Existing board members must orient new board members within ninety (90) calendar days of their appointment to include: - Requiring volunteer board members to orient new volunteer board members should not be a part of these rules. Requiring that volunteer board members to participate in an orientation makes sense; however, the agency should determine who can best provide that orientation.	Donald Redden, Developmental Services of Dickson	Chapter 5, Section 5.8.a.7.	The language has been revised to read as follows: "New board members must be oriented within ninety (90) calendar days of their appointment to include..."
9. Board minutes will reflect that board members are provided with a copy of T.C.A. § 48-58-302 pertaining to conflicts of interest. – Board members are typically provided information concerning T.C.A. 48 during orientation. That would not be reflected in board minutes. Dictating by rule what should appear in board minutes seems to be a stretch. You should be looking to see that the volunteer board members receive an appropriate orientation, but not by requiring that it be in the board minutes.	Donald Redden, Developmental Services of Dickson	Chapter 5, Section 5.8.a.9.	The purpose of this requirement is to have documentation showing that all board members are aware of the Conflict of Interest Policy.
5.12. Notification to DIDD of Changes in Provider Information. Providers are required to notify DIDD Central Office and the respective regional licensure office of the following changes in provider information using the Disclosure Form for Provider Entities, unless otherwise noted –Licensure has neither requested, nor do they need the personally identifiable information that is required in this form. The social security numbers of board members and key provider staff should be closely secured. DIDD and Licensure take on a great deal of liability when they ask for and receive this type of information.	Donald Redden, Developmental Services of Dickson	Chapter 5, Section 5.12	DIDD is required to perform federally mandated checks which necessitates acquiring personally identifiable information. This information is kept confidential.

Comment	Source	Policy/Rule/TCA Reference	DIDD Response
5. Change in provider office address or telephone. (Group Provider Address Change Form) – This form says that it should be returned to TennCare. Is this really the form that you want to use for DIDD and Licensure notification?	Donald Redden, Developmental Services of Dickson	Chapter 5, Section 5.12.5.	Yes, this is the form to use. Information is obtained by DIDD and submitted to TennCare using the approved form.
6. Change in provider fax number or email address (Submit via email). 7. Change of provider chief executive officer or Board chair. 8. Changes in services offered. (Submit via email) 9. Change of address of the person supported (regional office only). (Submit via email) 10. Change in emergency contact information. (Submit via email) -Submit to whom? Will all of this change information be communicated throughout the DIDD system? Or will it continue to be necessary to submit the same information to multiple offices?	Donald Redden, Developmental Services of Dickson	Chapter 5, Section 5.12.6. through Section 5.12.10	The contact information for the appropriate DIDD contacts is included in the Provider Manual.
Chapter 5: General Provider Requirements, 5.8.b.4. includes a requirement for an executive director to attend DIDD new provider orientation, but this section is specific to local advisory groups. This item may be out of place as it does appear in another section.	TASC (Tennessee Alliance of Support Coordinators)	Chapter 5, Section 5.8.b.5.	Your comment has been noted.

Comment	Source	Policy/Rule/TCA Reference	DIDD Response
5.11.4. requires that providers document in/start time and out/stop time for all services billed – Is this a new requirement? Is this a requirement across all Waiver services? Does this mean actual time or does this mean dates of service?	TASC (Tennessee Alliance of Support Coordinators)	Chapter 5, Chapter 5.11.4	This is not a new requirement. Reference the memo disseminated by former Commissioner Steve Norris dated December 17, 2004 and May 31, 2005; both memos are available on the DIDD web site under Commissioner's Correspondance. The requirement applies to all waiver services. It means the actual time delivering the service. Note that the date of service should also be documented.
5.4.1. Review of all documentation regarding the implementation of a person’s plan is not possible.	Beth Dunning, Waves, Inc.	Chapter 5, Section 5.4.1.	This review is essential to ensure quality of service delivery and is required.
5.5 QIP: Good agencies are involved continuously with improving their program daily, as issues arise, and as a result of outside monitoring. This requirement should be required for agencies who show a pattern of substandard services.	Beth Dunning, Waves, Inc.	Chapter 5, Section 5.5.	Documenting plans for continuous quality improvement is important for high performing agencies and those experiencing challenges. Therefore, the QIP is required across the board.

Comment	Source	Policy/Rule/TCA Reference	DIDD Response
5.6.4 Supervision Plans: Agencies should be empowered to make home visits based on the needs of the individual homes. Problematic homes or homes with non verbal residents should get more unannounced visits as compared to homes who run well and/or have residents who are very verbal. Also requiring the presence of residents during the visits make it difficult to be unannounced (when residents frequently go out) also when supervisors wish to do a thorough examination of the physical environment, medication administration ,etc it is more efficient to do it when the residents are not home.	Beth Dunning, Waves, Inc.	Chapter 5, Section 5.6.4.	The Department believes it is important that supervisor observe the interaction between staff and the person supported. This cannot be accomplished if the person supported isn't present during the visit.
Would like more clarity of why files must be kept for 10 years beyond a person's discharge. What is the purpose for this? Does this mean the entire contents of a record to include, MAR's, therapy notes, SS letters, doctor's appointments, SS letters, etc.? Storage for these files is a huge issue. Can these be kept electronically? Why is it necessary for all incident reports be kept for 10 years if DIDD keeps copies as well?	Beth Dunning, Waves, Inc.	Chapter 10	Records requirements are based on Tennessee statute. This means the entire contents of the record. We understand that storing records can present a challenge. Records can be maintained electronically. Once the Titan Solution is implemented, maintaing copies of incident reports should be more efficient.
Much time is spent in setting guidelines, surveys, analyzing data and making recommendations for quality improvement. These activities have their place however we see our quality is definitely tied to the ability to attract and maintain staff which is not possible under the current rates. As the economy improves and we lose staff to better paying jobs we sadly see the quality of our programs slipping. Management staff is also pulled off quality activities in order to find and train new staff or fill in for staff vacancies.	Beth Dunning, Waves, Inc.	None	Your comment has been noted.

Comment	Source	Policy/Rule/TCA Reference	DIDD Response
My Comment: 5.6 Supervision Plan The requirement of having supervisory visits to a family model home 2 times a month seems a little weighty resulting in unrealistic family model atmosphere. Identifying who should be present for the visit both staff and individuals supported is not a requirement that should be determined by DIDD but addressed with the agencies internal supervision plan.	Crystal Hicks, Emory Valley Center	Chapter 5, Section 5.6.	We respectfully disagree. The number of supervisory visits was increased because the Department believes that additional oversight is needed. In addition, the Department believes it is important that supervisors observe the interaction between staff and the person supported. This cannot be accomplished if the person supported isn't present during the visit.
My Comment: 5.4 Provider Self-Assessment , I would like to commend DIDD on recognizing and using the Basic Assurances as a form of self-assessment.	Crystal Hicks, Emory Valley Center	Chapter 5, Section 5.4.	The Department appreciates the recognition.
My Comment: 5.6 Supervision Plans: Clarification on the Day Site Supervision needs to be made. Is the supervisory visit for the Facility Based Services only? Does this include the Community Based Services? It seems redundant to have a Supervisory Visit for the sites since the Directors and Managers are typically based from the same office where the service delivery occurs.	Crystal Hicks, Emory Valley Center	Chapter 5, Section 5.6.	The visit can be made to the community day or facility day services site.

Comment	Source	Policy/Rule/TCA Reference	DIDD Response
<p>General comment: Early on in the Regulatory Task Force there was an agreement that all required plans would be either eliminated, requirements reduced or become requirements for only new providers or something providers wishing to expand would have to develop. This was to happen with the new Provider Manual and has not happened. We are disappointed to see the continuation of the Provider Management Plan, Supervision Plan, Internal QI Plan and the Provider Self Assessment.</p> <p>There is a real concern in the Introduction about “ Additional requirements not addressed in the Provider Manual can be found on the Provider Information page of the DIDD website” and TennCare policies. They need to be clearly referenced and marked and must not contain out-of-date information.</p>	TNCO	Chapter 5 Introduction	<p>While many recommendations were made by the Regulatory Relief Task Force, not all recommendations were approved by the Department.</p> <p>The language in the Introduction has been revised to read as follows: "Additional details regarding DIDD policies and procedures are available on the DIDD web site under Provider Info."</p>
5.2.c. Requirements for Background Checks: suggest replacing “The requirements for background checks are as follows” with “The prospective employee must provide” for clarity. As worded, 5.2.c.2. appears to conflict with 5.2.f.2.	TNCO	Chapter 5, Section 2.c	We respectfully disagree. 5.2.c.2 pertains to the references the applicant should provide whereas 5.2.f.2 pertains to the references with whom the provider agency is required to directly communicate.



Comment	Source	Policy/Rule/TCA Reference	DIDD Response
5.2.g.2. Requirements Pertaining to the Continued Employment of Provider Staff: with what frequency are providers expected to review the Tennessee Abuse Registry to ensure that an employee has not been placed on it without the provider's knowledge?	TNCO	Chapter 5, Section 5.2.g.2	The provider may determine the frequency of the review in its policies. The language has been revised to read as follows: "The provider must implement a written policy that ensures that employees do not continue to provide direct services or have direct responsibility for persons supported when the employee is convicted of criminal activity during employment or if the employee is placed on the Tennessee Abuse Registry. It is strongly recommended that providers check the Tennessee Abuse Registry regularly (e.g., monthly) to rule out the possibility that a person has been placed on the registry without the provider's knowledge."
5.3 Required Provider Policies – all required policies should be listed in one place. Required policies that are not listed but are found elsewhere in the manual: Medication safety policy described in 8.5 First Aid Policy described in 8.7 Transportation Policy described in 15.5 Volunteer Policy in 6.3.f Complaint Resolution Process in 2.6	TNCO	Chapter 5, Section 5.3	The language has been revised to include required policies that are discussed in other places in the provider manual, with a reference to the appropriate section.
5.3.15. Suggest replacing "client."	TNCO	Chapter 5, Section 5.3.15	The language has been revised to read as follows: "Maintaining and monitoring of the records of persons supported, including compliance with confidentiality requirements set forth in T.C.A. § 33-3-103 and HIPAA standards."

Comment	Source	Policy/Rule/TCA Reference	DIDD Response
5.4.2. Should ask for review of Monthly Review as previously stated; a review of “all documentation” would be impossible.	TNCO	Chapter 5, Section 5.4.2	This review is essential to ensure quality of service delivery and is required.
5.10 Provider Subcontracts: Please clarify that this section does not apply to persons contracted by family-based providers to provide services to individual(s) in their homes.	TNCO	Chapter 5, Section 5.1	This section applies to subcontractors of family model providers.
5.5 QIP: see General Comment above. Good agencies are involved in continuous quality improvement and work to improve their programs on a daily basis, as issues arrive and as a result of outside monitoring reports. This commitment to quality is reflected in management, incident management, department meeting minutes and in results. This requirement represents an emphasis on process over outcomes. DIDD could require such a plan of agencies, which show a pattern of providing substandard services.	TNCO	Chapter 5, Section 5.5	Documenting plans for continuous quality improvement is important for high performing agencies and those experiencing challenges. Therefore, the QIP is required across the board.

Comment	Source	Policy/Rule/TCA Reference	DIDD Response
5.6.4 Supervision Plans –see General Comment above. a. Residential: agencies should be empowered to schedule home visits based on the needs of individual homes. For example, problematic homes should be visited more often, homes that are operating well less often. Additionally, requiring the presence of residents during the visit is not helpful. Supervisors wishing to do a thorough examination of the physical environment, medication administration, etc. can do a better job without the presence of the residents; Family Model: see comment above.; Day Services: it is unclear what the requirement means. Does it mean a supervisor should accompany an individual on a community activity once a month? If the reference includes facility based, it is unnecessary, since the supervisors and directors would be present on a daily basis.	TNCO	Chapter 5, Section 5.6.4	The Department believes it is important that supervisor observe the interaction between staff and the person supported. This cannot be accomplished if the person supported isn't present during the visit. It is up to the provider agency to decide whether supervisors should accompany an individual on a community activity once a month.
5.7 The Provider Management Plan: see General Comments above. We appreciate DIDD’s reducing the items asked for, but the Regulatory Relief Task Force discussed making this a requirement of agencies applying to become DIDD providers.	TNCO	Chapter 5, Section 5.7	While many recommendations were made by the Regulatory Relief Task Force, not all recommendations were approved by the Department.
5.8.a.7 Requirements for Not-For-Profit Provider Boards of Directors: Ordinarily, the agency’s executive director and/or management team orients new board members, not “existing board members.” Who orients new members should be left up to the agency.	TNCO	Chapter 5, Section 5.8.a.7	The language has been revised to read as follows, “New board members must be oriented within ninety (90) calendar days of their appointment to include...”

Comment	Source	Policy/Rule/TCA Reference	DIDD Response
Chapter 6 – Staff Development. Section 66.3.h.; A more complete definition of Natural Supports would be helpful.	Nancy Thiessen, Comcare Inc.	Chapter 6,Section 6.3.h	The language in chapter 6 has been revised to read as follows: "Natural supports are family members and close (constant, stable, steady, long-lasting, and established) friends of the person using services. A natural support can be someone who is relatively new in the life of the person using services. The intent here is to express that a meaningful friendship exists between the person supported and the individual serving as a natural support regardless of the length of time they have known one another. "
I'd like to comment on item -- chapter six, item 3.h, the definition of natural supports. This is an unworkable definition because it says a lifelong friend. We are not able to help peopledevelop natural supports and give them any time with natural supports if the person first has to be a lifelong. This is totally unworkable.	Cindy Graves, Impact Centers	Chapter 6, Section 6.3.h	The language in chapter 6 has been revised to read as follows: "Natural supports are family members and close (constant, stable, steady, long-lasting, and established) friends of the person using services. A natural support can be someone who is relatively new in the life of the person using services. The intent here is to express that a meaningful friendship exists between the person supported and the individual serving as a natural support regardless of the length of time they have known one another. "

Comment	Source	Policy/Rule/TCA Reference	DIDD Response
Chapter 5 Staff Development Section 6.3.h... The definitions of natural supports is not broad enough and deters providers from helping the person supported from developing natural supports.	Jennifer Enderson, Emory Valley Center	Chapter 6, Section 6.3.h	The language in chapter 6 has been revised to read as follows: "Natural supports are family members and close (constant, stable, steady, long-lasting, and established) friends of the person using services. A natural support can be someone who is relatively new in the life of the person using services. The intent here is to express that a meaningful friendship exists between the person supported and the individual serving as a natural support regardless of the length of time they have known one another. "
Chapter 6 Staff Development Section 6.6 Comment Positive steps have been made in moving to electronic learning management. It would be beneficial for providers ad DIDD to move 100% of training documentation/certification to the ELM instead of tracking some trainings with paper documentation.	Community Network Services LLC	Chapter 6, Section 6.6	The Department will take this under consideration. However, it should be noted that the Department has received feedback from several provider agencies indicating their preference for classroom training rather than the web based training on the ELM.

Comment	Source	Policy/Rule/TCA Reference	DIDD Response
Overall, Chapter 6 does a dismal job of explaining which of the various kinds of training courses apply to which classifications of staff and discerning the timeframes in which the training must occur. The chapter defines classifications of employees for training purposes. It defines the categories and the content of the training courses. And, it defines phases or time periods for completing training. But none of these elements are tied together in any kind of obvious pattern that easily reveal the DIDD's intentions to readers without behind-the-scene knowledge. The required courses are never applied across the classifications of providers' staffs or vice-versa. The various "phases" state that the "courses" of that phase must be completed within specified timeframes. And, each phase places stipulations on whether a new employee may be deployed to work persons directly until that phase is completed. However, there is no listing or mention whatsoever of which training courses must be accomplished during each phase. And, it is not clear at all if all four phases apply to an ISC, or for that matter, to every other type of employee.	TASC (Tennessee Alliance of Support Coordinators)	Chapter 6	Included in Chapter 6 are links to the DIDD Web Training web page. On this page are specific details about training courses. It was never the Department's intention to duplicate in the manual information that can be found on the web page and in the Training Resource Guide.
6.3.c. addresses the topic of training requirements for newly-hired ISCs, but it provides no listing or description of the content or courses for that required training. In two instances, the section states that the course requirements would be listed later on within the section. It even mentions that there "eight modules listed below" for ISCs, but no such listing can be found anywhere in the chapter.	TASC (Tennessee Alliance of Support Coordinators)	Chapter 6, Section 6.3.c.	The language has been revised to read as follows: "If managerial staff also provide ISC services, the ISC training requirements listed on the web site will also be required for those persons." (see link in footnote below)

Comment	Source	Policy/Rule/TCA Reference	DIDD Response
6.4. lists and describes various “Course Requirements” by topical categories. However, nowhere in this chapter are these topical courses applied to the various kinds of employees defined in the preceding section 6.3. For example, how is an ISC provider supposed to know which, if any, of the courses listed in section 6.4. apply to hiring and training a new ISC?	TASC (Tennessee Alliance of Support Coordinators)	Chapter 6, Section 6.4.	<p>The language has been revised as follows:</p> <p>In regard to Information and Training Specific to the Person, the language has been revised to read as follows: "Prior to working alone with a person supported, individual specific training is required for direct support professionals. "</p> <p>In regard to Protection from Harm Training, the language has been revised to read as follows: "To ensure that training on this topic is effective, completion of the web-based training and/or classroom training dealing with abuse, neglect and exploitation of adults and children as well as the DIDD incident reporting training, is required of all categories of staff (as described in this manual)."</p> <p>In regard to Medication Administration for Unlicensed Personnel, the manual states: "No unlicensed staff of any level can administer medications until they have completed the training and certification process." The requirement clearly applies to provider staff who will be responsible for administering medication.</p>
6.5.d. is captioned “Phase IV Training for ISCs”. Is this the only phase that applies to ISCs? Do any of the other phases apply to ISCs? What is the point of having “phases” of training unless each particular group of staff is expected to complete more than one phase? What courses must be completed in this or any other phase?	TASC (Tennessee Alliance of Support Coordinators)	Chapter 6, Section 6.5.d.	<p>Yes, this is the only phase that applies to ISCs. The headings have been clarified to read as follows: 6.5.a. Phase I or Pre-Service Training for All Staff; 6.5.b. Phase II or Core Training for All Staff; 6.5.c. Phase III for Job Coaches only, 6.5.d Phase IV Training for ISCs only.</p>

Comment	Source	Policy/Rule/TCA Reference	DIDD Response
6.3.g. Students: should be able to do duties of paid staff with proper training. Usually the student is looking for field training and these responsibilities are very appropriate.	Beth Dunning, Waves, Inc.	Chapter 6, Section 6.3.g.	The requirement is consistent with Department of Labor standards. For further information on students and interns see the Training Resource Guide on the DIDD web site.
6.3.h. Natural Supports: the definition is too limiting and would prevent agencies from developing natural supports for a person who was not family or a life long friend.	Beth Dunning, Waves, Inc.	Chapter 6, Section 6.3.h.	The language has been revised to clarify the meaning of life-long. The Provider Manual reads as follows: "Natural supports are family members and close (constant, stable, steady, long-lasting, and established) friends of the person using services. A natural support can be someone who is relatively new in the life of the person using services. The intent here is to express that a meaningful friendship exists between the person supported and the individual serving as a natural support regardless of the length of time they have known one another. "
What training (if any) will a tenure BA need to regularly get and maintain? Right now, it is only Title VI. The manual was and remains vague on this issue.	Zach Shoemaker	Chapter 6	The training requirements for Behavior Analysts can be found on the web site under the heading "Clinicians". Links to the DIDD Training page are in the manual.



Comment	Source	Policy/Rule/TCA Reference	DIDD Response
6.3.b.8 Agency Trainers for Continuation of Staff Instructions : given turnover issues, some provision needs to be made to pay for therapists to return to the agency to train new designated trainers. Additionally, providers may not have the requisite internal competence to monitor designated trainers.	TNCO	Chapter 6, Section 6.3.b.8	According to the 1915(c) waiver that is approved by the Centers for Medicare and Medicaid Services, the State is authorized to pay for initial training. Reference the service definition for Occupational Therapy which reads as follows: "Occupational Therapy shall mean medically necessary diagnostic, therapeutic, and corrective services which are within the scope of state licensure and which are provided to assess and treat functional limitations involving performance of activities of daily living; and the initial training of provider staff on the appropriate implementation of the therapy plan of care". Language regarding payment for "initial training" can also be found in the service definitions for Physical Therapy, and Speech, Language and Hearing Services. The service definitions are available on the DIDD web site on the Provider Info page under Service Definitions.
6.3.c ISCs and ISC Managerial Staff: ISCs should be required to attend the new ISP training and Person-centered thinking training.	TNCO	Chapter 6, Section 6.3.c	ISCs are required to complete training that includes ISP Planning and Development and Person-centered thinking. ISC Managerial Staff are required to complete Regional Office and Central Office Orientation.
6.3.e. Rehires: we applaud DIDD for clarifying the one-year, time-frame in the Provider Manual.	TNCO	Chapter 6, Section 6.3.e	The Department appreciates the recognition.

Comment	Source	Policy/Rule/TCA Reference	DIDD Response
6.3.f Volunteers: the prohibition against leaving a volunteer alone with a person served is too rigid. This would prevent, for example, an individual being left with a volunteer during Special Olympics or in an art class or other community activity.	TNCO	Chapter 6, Section 6.3.f	The requirement is consistent with Department of Labor standards. For further information on volunteers see the Training Resource Guide on the DIDD web site.
6.3.g Students and Interns: see comments above on being left alone. Additionally, agencies cannot provide adequate intern activities if the intern is not allowed to complete duties of paid direct support staff. Social work interns will not be allowed to take an individual to their annual physical or help them in the bathroom.	TNCO	Chapter 6, Section 6.3.g	The requirement is consistent with Department of Labor standards. For further information on students and interns see the Training Resource Guide on the DIDD web site.
6.3.h Natural Supports: this definition is too limiting and would prevent agencies from developing natural supports for person who were not family members on lifelong friends.	TNCO	Chapter 6, Section 6.3.h	The language in chapter 6 has been revised to read as follows: "Natural supports are family members and close (constant, stable, steady, long-lasting, and established) friends of the person using services. A natural support can be someone who is relatively new in the life of the person using services. The intent here is to express that a meaningful friendship exists between the person supported and the individual serving as a natural support regardless of the length of time they have known one another. "

Comment	Source	Policy/Rule/TCA Reference	DIDD Response
6.4.b. Information and Training Specific to the Person: In paragraph 6, the training requirements on medications are an unnecessary and burdensome addition. The extensive training in the DIDD Medication Administration Curriculum and review of medication profile sheets are required now and serve the same purpose. All required training should be listed here. Chapter 12 (12.55) lists more specific behavior training that is required but it is not referenced here.	TNCO	Chapter 6, Section 6.4.b	<p>The requirement to train unlicensed personnel to administer medication is consistent with Tennessee statute.</p> <p>The language in Chapter 6 has been revised as follows: "For information on required training related to behavior services, see Chapter 12 Behavior Services, particularly Section 12.7 Residential, Day and Personal Assistance Agency Responsibilities in Behavioral Health Interventions."</p>
6.4.f.3. Health Information Portability and Accountability Act (HIPAA): The federal mandate is cited in 6.4.f.1. and 6.4.f.2. Please cite the federal reference for requiring this training annually.	TNCO	Chapter 6, Section 6.4.f.3	<p>The language has been revised to read as follows: "Either federal regulations or DIDD requires annual training on these topics. In order to help agencies meet these requirements, DIDD has created curricula available for web-based training or classroom instruction."</p>

Comment	Source	Policy/Rule/TCA Reference	DIDD Response
6.6 Training Documentation: the statement that agencies shall do all testing in the training portal site is (luckily) contradicted by the next section, 6.7 Training Resources.	TNCO	Chapter 6, Section 6.6	The language has been revised to read as follows: "Agencies may utilize web-based training or choose to complete training using the web-based training materials in a classroom setting. The Department's preference is that all agencies conduct all testing in the web-based training portal site so that all training is recorded in the electronic learning management (ELM) system. If web-based testing is prohibitive and an agency elects to conduct testing in a classroom setting, it is essential that test results are manually entered in the ELM for each learner so that the test is captured on the learner's electronic transcript".
6.7 Training Resources: It is hoped that the Effective Training Techniques course referenced is a new on-line course and not the previous one offered at the regional offices.	TNCO	Chapter 6, Section 6.7	Yes, it is the Effective Training course that is offered through the Regional Office. The Department is considering revising this course.

Comment	Source	Policy/Rule/TCA Reference	DIDD Response
Neglect issues. DIDD treats providers differently than the Center for Medicare /Medicaid Services, and I think DIDD is probably wrong. Neglect and exploitation issues should be investigated even -- not simply as a perpetrator, individual situation. It is possible -- and I have seen -- I have seen instances where agencies are guilty of neglect or misappropriation, and to my knowledge DIDD has failed to investigate properly agency neglect or misappropriation. Exploitation, excuse me, and when reported to them. I think at least one agency it took many years to be run out of business for complaints about exploitation, and DIDD didn't do anything about them; and I expect that those issues should be treated in the same manner that the CMS treats other providers.	William Barrick, ComCare	Chapter 7	We respectfully disagree. The Department investigates allegations fitting the definitions of abuse, neglect and exploitation. The Department holds accountable, agencies and individuals who are substantiated for abuse, neglect or exploitation. Accountability may take a variety of forms including termination of the provider agreement, referral to the TN Department of Health Abuse Registry and law enforcement. Any person with knowledge of such instances is required to make a report to the Department.
The reportable incident form, the current language doesn't permit a copy to the conservator. I think the conservator should do his job in responsibility to the court, should be getting a copy of the reportable incident form. It should be redacted with any PHI and HIPAA information so that the other information, other concerns of that person is not shared, but the conservator should be entitled to know what was reported in the form of reportable incidents. Thank you for your time. Does that mean I get to leave early?	William Barrick, ComCare	Chapter 7	The Department has considered this, but in the interest of protecting the confidentiality of the reporter of the incident, DIDD has made the determination that this is not appropriate.
Item 7.31, the incident management coordinator's responsibility includes overseeing all safety requirements. Our agency has a safety committee and a director of operations who chairs our safety committee and sees to our safety needs. He works very closely with the incident management coordinator, but that should not be prescribed by DIDD. That should be an individual thing that providers determine.	Cindy Graves, Impact Centers	Chapter 7, Section 7.3.1	The language has been revised to read as follows: The IMC shall have primary responsibility for ensuring compliance with and fulfilling all of the incident management responsibilities discussed herein.

One thing that -- we had an agreement list of principles in the Regulatory Relief Task Force, was the right of the staff person that had been -- to substantiate or prove abuse, neglect or exploitation, the right for them to have at least an informal review of their case. Currently, the agency can ask for a review. The person or his family can ask for a review, but the person that is being -- conceivably, the most injured by the substantiation is not allowed to even have an informal review. A person's rights should not be limited for fear that it might result in too much work for some people in the department. I think we really need to have an informal review available for people.	Betty McNeely, Journeys in Community Living	None	Upon review of the records of the Regulatory Relief Task Force, no such agreement allowing substantiated persons to request an informal review of their case could be located. However, with the support of his or her employer, the substantiated person's case can be reviewed pursuant to DIDD policy 80.2.3. The Department is considering broadening the list of reasons for which an investigation review can be requested.
Chapter 7 – Protection From Harm. 1. The Medication Variance form should be revised and simplified.	Nancy Thiessen, Comcare, Inc.	Chapter 7	The Medication Variance form has been revised and published as of June 2013 and is available on the DIDD web site, Provider Info page under Forms & Tools. If there are concerns about the form then submit those concerns in writing to the DIDD Policy Division at DIDD.Policy@tn.gov.
Chapter 7 – 2. Granting requests for investigation reports only “based on new or additional information or evidence” is much too narrow. There should be room for consideration of investigator misunderstanding and/or bias.	Nancy Thiessen, Comcare, Inc.	Chapter 7	The Department is considering broadening the list of reasons for which an investigation review can be requested.
Chapter 7 – 3. Is an appeal to the Commissioner still an avenue that can be used if needed?	Nancy Thiessen, Comcare, Inc.	Chapter 7	Per policy 80.2.3 section VI.D.1(c), "Once the review is closed by the Investigation Review Committee, the decision by the Committee is final and may not be overturned or modified by any DIDD employee."
Chapter 7 Protection From Harm Section 7.1.b.1.c. Question The definition of Exploitation removes this statement; “The provider is required to reimburse the person support regardless of the amount of money involved.” Question: Has the requirement been removed from DIDD policies?	Community Network Services LLC	Chapter 7, Section 7.1.b.1.c.	No, the requirement has not been removed from DIDD policies. Providers are required to comply with policy 80.4.3 Personal Funds Management.

We applaud the Department’s enhanced protection of person served by adding manual restraint, mechanical restraint, and protective equipment to the categories of reportable incidents in Protection for Harm 7.1.c.	Lisa Primm, Disability Law & Advocacy Center	Chapter 7, Section 7.1.c.	The Department appreciates the recognition.
7.3. Incident Management Requirements, 4. Ensure that documentation of the submission is maintained for ten (10) years. – Why 10 years? What is the issue here that requires not the maintenance of the report, but rather documentation that the report was submitted? This is an extremely onerous requirement which will rest on DIDD staff as well because they will be required to reply to a “read request” with every submission. Also, realize that the “10 years” will begin with the approval of the new Provider Manual. Hopefully, Titan will be able to better document these submissions.	Donald Redden, Developmental Services of Dickson County	Chapter 7, Section 7.3	The Department monitors provider agencies to ensure that reportable incidents were in fact reported to the Department using a Reportable Incident Form. The RIF becomes part of the person's record, although it is filed separately from daily notes. Generally, records for persons supported are maintained for ten (10) years or ten years plus one (10 + 1) from the date of the person's death or discharge. In the absence of a specific timeframe dictated by TN statute or CMS, the Department requires evidence of submission to be maintained for ten (10) years. Once Titan has been fully implemented, the Department will have auditable proof of the submission of reportable incidents. At that time, the Department will consider removing this requirement for providers.

7.6. Protection from Harm Policy Requirements. 7. Sanctions for falsification of incident reports; the making of false allegations; providing false or misleading information during an investigation; or the withholding of information during an investigation by any employee. The provider is expected to adopt a zero tolerance policy for such infractions. – This item is not clear. You reference “sanctions” and “zero tolerance”. “Sanctions” is not a term ordinarily used with corrective action for employees. Is this what is meant? By “zero tolerance” are you referencing termination or just some other corrective action? We can only follow these policies if we understand what they mean.	Donald Redden, Developmental Services of Dickson County	Chapter 7, Section 7.6	The requirement of a zero tolerance policy means that sanctions and or corrective action must be taken. The word "sanctions" has been replaced with "consequences". The agency is not required to terminate the employee. However, the expectation is that the agency will hold the employee accountable.
7.1.c.18. Medication Variances & Omissions: An RIF should not be required unless harm came to the individual. The DIDD investigation hot line should not need to be called if medication was given by an unlicensed person unless harm came to the individual.	Beth Dunning, Waves, Inc.	Chapter 7, Section 7.1.c.18.	Do not concur.
7.3 Incident Management Requirements: It appears that the responsibilities of the IMC have broadened unnecessarily to including “ensuring compliance with safety requirements. Agencies should be able to assign these responsibilities to whoever they feel is most qualified.	Beth Dunning, Waves, Inc.	Chapter 7, Section 7.3	The language has been revised to read as follows: "The IMC shall have primary responsibility for ensuring compliance with and fulfilling all of the incident management responsibilities discussed herein."
7.5 Review of a DIDD Final Investigation Report: Granting requests for investigation reports only “based on new or additional information or evidence is too narrow. Investigation conclusions are not totally factual and can be based on interpretations, bias, or misunderstandings. There should also be a provision that the decision can be appealed to the commissioner.	Beth Dunning, Waves, Inc.	Chapter 7, Section 7.5.	The Department is considering broadening the list of reasons for which an investigation review can be requested.



7.1.c.13. Protective Equipment if protective equipment is part of an approved BSP, a RIF should not be needed each time it is used. We recommend a summary be submitted to the BA monthly.	TNCO	Chapter 7, Section 1.c.13	As described in Chapter 12, the provider may request a reporting variance. The language has been revised to read as follows: "13. Protective Equipment: as defined in the glossary. Unless, when appropriate, a reporting variance has been requested and approved."
7.1.c.18. The Medication Variance Form should be simplified. A RIF should not be required unless actual harm came to the individual.	TNCO	Chapter 7, Section 1.c.13	The Medication Variance form has been revised and published as of June 2013 and is available on the DIDD web site, Provider Info page under Forms & Tools. If there are concerns about the form then submit those concerns in writing to the DIDD Policy Division at DIDD.Policy@tn.gov. Do not concur that a RIF should be submitted only if there has been harm to the person.
7.3 Incident Management Requirements : it appears that the responsibilities of the IMC have been broadened unnecessarily to including "ensuring compliance with all safety requirements." Agencies should be allowed to assign such responsibilities as chairing its Safety Committee, ensuing proper vehicle maintenance, reviewing tornado drills , etc. to whomever they feel is the best qualified.	TNCO	Chapter 7, Section 3	The language has been revised to read as follows: "The IMC shall have primary responsibility for ensuring compliance with and fulfilling all of the incident management responsibilities discussed herein."
7.3 Incident Management Responsibilities (1) assume review of all reportable incidents is meant. Many agencies use the Incident Management Committee to review other incidents that don't rise to the level of Reportable Incidents, but this is not, nor should it be, required.	TNCO	Chapter 7, Section 3	The requirement is that all incidents are to be reviewed.

7.5 Requesting a Review of a DIDD Final Investigation Report DIDD agreed via the Regulatory Relief Task Force to develop an informal review process for the person substantiated of abuse, neglect or exploitation. The fact that this might be somewhat time consuming for DIDD staff is not a good enough reason to deny a person their constitutional rights. Granting requests for investigation reports only “based on new or additional information or evidence” is much too narrow. Investigation conclusions are not totally factual but can be based on interpretations, bias or misunderstandings. There is no mention of an appeal to the Commissioner. We hope that this valuable safeguard is still in place.	TNCO	Chapter 7, Section 5	Upon review of the records of the Regulatory Relief Task Force, no such agreement allowing substantiated persons to request an informal review of their case could be located. However, with the support of his or her employer, the substantiated person's case can be reviewed pursuant to DIDD policy 80.2.3. The Department is considering broadening the list of reasons for which an investigation review can be requested.
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Comment	Source	Policy/Rule/TCA Reference	DIDD Response
Another issue in terms of medication variances. It appears that right documentation, R-i-g-h-t documentation has been added to the eight rights, and it sounds like a documentation error then is reportable through the system in which we report medication variances. I think that is a very short-sighted decision. Although not addressed in the manual, we do have a promise that the medication variance form will be revised, and I certainly hope that's going to happen soon because it's pretty much unusable.	Betty McNeely, Journeys in Community Living	Chapter 8, Section 8.5.a	An error in documenting medication is considered a medication variance. The Medication Variance form has been revised and published as of June 2013 and is available on the DIDD web site, Provider Info page under Forms & Tools. If there are concerns about the form then submit those concerns in writing to the DIDD Policy Division at DIDD.Policy@tn.gov.
Also, to echo the concern about the medication variance form, we would denote that it appears that the documentation might be a variance issue again. If that is not correct, we would certainly request that that be clarified quickly.	Lee Chase, Dawn of Hope Inc. and TNCO	None	An error in documenting medication is considered a medication variance. The Medication Variance form has been revised and published as of June 2013 and is available on the DIDD web site, Provider Info page under Forms & Tools. If there are concerns about the form then submit those concerns in writing to the DIDD Policy Division at DIDD.Policy@tn.gov.
Chapter 8 – Health Care Management. 1. Medication variances: should not include documentation errors.	Nancy Thiessen, Comcare, Inc.	Chapter 8, Section 8.5.a	Do not concur. A documentation error is a medication variance.
Chapter 8 - 2. Please clarify Section 8.66 (5): Unclear what this is, how to implement and who is responsible to implement.	Nancy Thiessen, Comcare, Inc.	Chapter 8, Section 8.6(5)	Reference Chapter 12, Section Cross Systems Crisis Plans. Clarification has been added to the section in question.

Chapter 8 – 3. First aid kits were thoroughly discussed in the summer of 2012 and instructions were given to agencies at that time. It is requested that the instruction/directions given at that time be substituted for the wording in this draft manual.	Nancy Thiessen, Comcare, Inc.	Chapter 8	Do not concur. However, there is nothing in the Provider Manual prohibiting your agency from using the items listed in previous instructions/directions.
8.3.c. Primary Care Practitioner and Dental Services. Persons supported shall have access to dental services as needed. - While it is difficult to argue with this statement conceptually, DIDD has put a waiver cap on dental services which sometimes limits people having the access needed. What is the avenue to compliance then?	Donald Redden, Developmental Services of Dickson County	Chapter 8, Section 8.3.c.	When the waiver services limits are encountered, the representative payee is responsible for ensuring the person's needs are met in the order of their priority.
8.4. Integrating Behavioral and Therapeutic Health Supports and Services. 7. Providers shall continue the implementation of individual specific instructions, as recommended, after the person is discharged from a therapeutic service. These are to be reviewed at least annually by the COS to assure they continue to meet the person's needs. Any changes to the instructions require a new referral to the appropriate clinician. – The heading of this section is “Behavioral and Therapeutic Health”, so it could be read as though referencing BSPs; however, in Chapter 12 we learn that BSPs do not survive the BA. There may need to be some clarification here specifically as it relates to behavioral supports.	Donald Redden, Developmental Services of Dickson County	Chapter 8, Section 8.4	Item #7 applies only to therapeutic services, not behavioral services. At the end of #7, we have added the clarifying language, "This requirement does not apply to behavioral services".

8.5.a. Medication Administration by Unlicensed Personnel. 6. Medication variances and omissions can occur during transcribing, preparing, administering or in the documentation of a medication. A medication variance occurs at any times that a medication is given in a way that is inconsistent with how it was ordered by the prescribing practitioner and in accordance with the “Eight Rights” (i.e., right dose, right drug, right route, right time, right position, right texture, right person, and right documentation). – Will the eighth “Right” be included in the training class upon approval of this manual? How will it be communicated to the trainers?	Donald Redden, Developmental Services of Dickson County	Chapter 8, Section 8.5.a	The Medication Administration curriculum is being updated and will include the "Eight Rights".
8.5.b. Administration and Supervision of Psychotropic Medications. Involuntary administration of psychotropic medications by provider agency staff is strictly prohibited. - While on the surface this statement makes sense, it does not appear strictly correct. For example, when a person is having a very serious behavioral incident putting himself/herself at risk, after assessment a PRN IM injection may be ordered by a physician and administered by an RN. This would appear to be the involuntary administration of a psychotropic medication. Perhaps this could be reworded.	Donald Redden, Developmental Services of Dickson County	Chapter 8 Section 8.5.b.	PRN medications are not involuntary medications. The Provider Manual states in Section 8.5.a(5): "PRN psychotropic medications may only be administered by a licensed nurse after an RN or prescribing practitioner has determined less restrictive measures have been taken and failed to stabilize the situation. Informed consent is required before the doctor's order is implemented, and HRC review is required within 30 days."

8.8. Primary Provider Responsibilities for Hospitalizations. 2. Provide the hospital with contact numbers for the ISC/case manager, including after-hours contact information. – Perhaps it can go unsaid, but the important contact numbers to provide for the hospital are the primary contacts with the agency, the family, and the legal representative. Can we assume that and interpret this to be something else to give to the hospital, or are you saying that these are the only contact numbers that the hospital needs? Our experience is that the hospitals have no need or desire to contact an ISC or Case Manager.	Donald Redden, Developmental Services of Dickson County	Chapter 8, Section 8.8.2	The ISC/CM must be involved to ensure proper discharge planning and coordination of services. The language has been revised as follows: "2. Provide the hospital with contact numbers for the ISC/CM, including after-hours contact information, in addition to other contact information such as the legal representative and family."
3. Provide communication links between the person and or legal representative, residential service provider and hospital staff.	Donald Redden, Developmental Services of Dickson County	Chapter 8 Section 8.8.3	Text copied from the provider manual. No response needed.
4. Collaborates with the legal representative and or the residential provider to ensure the person has adequate supports while receiving in-patient hospital care.	Donald Redden, Developmental Services of Dickson County	Chapter 8 Section 8.8.4.	Text copied from the provider manual. No response needed.
5. Collaborates with hospital discharge planning staff, the legal representative, the person's MCO, the residential provider and, if the person is also Medicare eligible, his/her Medicare provider to identify and obtain any alternative supports and services needed by the person upon discharge.	Donald Redden, Developmental Services of Dickson County	Chapter 8 Section 8.8.5	Text copied from the provider manual. No response needed.

6. Update the ISP as needed but no later than within 14 calendar days from date of discharge to ensure the person's needs are met. – These appear to be vestiges of the previous requirements of the ISC. By definition elsewhere in this manual, the primary provider would be the residential provider. Also in section 6., the provider cannot update the ISP. Stating that the primary provider has these responsibilities rather than the ISC is a very positive step, but these items now require a revision.	Donald Redden, Developmental Services of Dickson County	Chapter 8 Section 8.8.6.	The language has been revised to read as follows: "Collaborates with the ISC/CM to ensure the ISP is updated when indicated after discharge to ensure the person's needs are met."
8.10. Death Reporting and Death Reviews. Entities serving persons with intellectual disabilities who are supported by HCBS waiver or other community programs funded through DIDD are responsible for reporting the death of such persons supported to DIDD and for complying with the 90.1.2 Death Reporting and Review Policy. – Deaths of persons supported in Family Support have not been reported in the same manner as deaths of persons in waiver programs, but this would appear to open up that possibility. Is that what is being said here?	Donald Redden, Developmental Services of Dickson County	Chapter 8, Section 8.10	The language has been revised to read as follows: "Entities serving persons with intellectual disabilities who are supported by HCBS waiver (or in a state-operated ICF/IID or developmental center) are responsible for reporting the death of such persons supported to DIDD and for complying with the 90.1.2 Death Reporting and Review Policy. This requirement does not pertain to the Family Support Program".
8.11. Autopsies. The Department requires an autopsy for deaths that are unexpected and unexplained. These autopsies will be performed without cost to the family or legal representative. In the event the family or legal representative objects to the autopsy, the Department will respect their wishes and not request an autopsy be performed. – How do you "require" something, but when someone objects, not request it? While we find no fault with the intention here, some rewording might be in order.	Donald Redden, Developmental Services of Dickson County	Chapter 8, Section 8.11	The language has been revised to read as follows: "The Department encourages family members and or legal representatives of persons supported to request an autopsy for deaths that are unexpected and unexplained. These autopsies will be performed without cost to the family or legal representative. In the event the family or legal representative objects to the autopsy, the Department will respect their wishes."

Chapter 8 Healthcare Management 8.9. requires that ISC's address end of life decisions, including autopsies, at the time of ISP planning. What are the expectations of how this will be documented? Is there an expectation that autopsies be covered in a person's ISP? This does not seem like an appropriate topic for an ISC to be having with a person supported or families during planning for an ISP. It is understood about the importance of life sustaining measures and such, but not autopsies.	TASC (Tennessee Alliance of Support Coordinators)	Chapter 8, Section 8.9.	End of Life issues do not have to be addressed during the ISP planning meeting. The information must be documented in the ISP, as stated in 8.9 #2 in the Provider Manual.
8.5.a The "right documentation has been added to the "7 rights". This would result in every documentation error being reported through the med. Variance system, this is too time consuming and better handled through other internal systems. Also the current med variance form should be redone to improve ease of use and clarity.	Beth Dunning, Waves, Inc.	Chapter 8 Section 8.5.g.	Do not concur. A documentation error is a medication variance. The Medication Variance form has been revised and published as of June 2013 and is available on the DIDD web site, Provider Info page under Forms & Tools. If there are concerns about the form then submit those concerns in writing to the DIDD Policy Division at DIDD.Policy@tn.gov.
8.7 First Aid kits, a standard kit should be sufficient and why is security needed?	Beth Dunning, Waves, Inc.	Chapter 8 Section 8.7.	Do not concur. Security of the kit and its contents needs to be addressed.
8.8 Primary Provider responsibilities for Hospitalizations: needs a comment on the responsibility of the primary provider to inform the day service provider of the hospitalization and results.	Beth Dunning, Waves, Inc.	Chapter 8 Section 8.8.	We concur. Providers are required to communicate with one another. Reference Chapter 10, Section 10.15. 10. The language has been revised to read as follows: "10. Informs the Day Service provider of the hospitalization and the results. This communication can occur via email or in-person or telephone."



8.8.6 the ISC has the responsibility to update the ISP (8.8.4, 8.8.5, 8.8.6 and 8.8.8 all seem to be ISC's responsibilities)	Beth Dunning, Waves, Inc.	Chapter 8 Section 8.8.6.	The language has been revised to indicate a collaboration between the primary provider and the ISC/CM.
Throughout this chapter, we recommend that the "staff instructions" terminology be changed to "staff guidelines."	TNCO	Chapter 8	Your comment has been noted. The Department discussed this recommendation and decided to retain the current terminology.
8.3.a (1): informed consents could be problematic for temporary medications for colds, headaches or medical issues, etc. If a conservator has to sign a consent form prior to medication being administered on each occasion. Would approval of the prn/otc list be sufficient? We suggest that the word "medications" be dropped from this sentence.	TNCO	Chapter 8, Section 8.3.a.1	The language has been revised for clarity to read as follows: " 1. Informed consent for treatment shall be obtained from the person and/or legal representative prior to the provision of services. A new informed consent is required if specifications are not included and changes occur after the consent was signed. "
8.3.b Health Care Coordination: "they shall document the following outcomes" used to read will "develop/maintain policies and implement practices". What is expected here is unclear. Return to the previous wording.	TNCO	Chapter 8, Section 8.3.b	The language in the first paragraph has been revised to read as follows: "Because of their extensive responsibility for the person, they shall document the following policies and/or practices were implemented as related to health care management and supervision".
8.5.a Medication variances: "right documentation" has been added to the "7 rights." This would result in every documentation error being reportable through the med variance system. This would be much too time consuming and would be better handled through other internal processes.	TNCO	Chapter 8, Section 8.5.a	We understand that reporting medication variances may be time consuming, however, it is important to ensure the health and safety of the people we support.

As has been agreed to almost universally, the current med variance form must be redone to improve ease of use, clarity and usefulness.	TNCO	Chapter 8, Section 8.5	An error in documenting medication is considered a medication variance. The Medication Variance form has been revised and published as of June 2013 and is available on the DIDD web site, Provider Info page under Forms & Tools. If there are concerns about the form then submit those concerns in writing to the DIDD Policy Division at <a href="mailto:DIDD.Policy@tn.gov">DIDD.Policy@tn.gov</a> .
8.5.b. Administration and Supervision of Psychotropic Medications: we ask that DIDD provide training in recognizing symptoms of neuroleptic malignant syndrome, as providers do not feel that they can teach staff to recognize these symptoms as evidence of such.	TNCO	Chapter 8, Section 8.5.b	The Department will take this under consideration.
8.6. Recognition and Response to Urgent and Emergent Health Problems: 8.6.5. This needs clarification.	TNCO	Chapter 8, Section 8.6.5	Reference Chapter 12, Section Cross Systems Crisis Plans. Clarification has been added to the section in question.

8.7. First Aid Kits: 8.7.3. Dr. Cheetham’s memo states "the agency will provide a standard first-aid kit that contains adequate supplies for the provision of first aid." The list of contents should not be required. 8.7.4 Why is security needed for first-aid kits? They should be readily available for use. Why is a provider policy required if simply following Dr. Cheetham’s memo?	TNCO	Chapter 8, Section 8.7.3	The list of required contents is based on standards set forth by the Occupational Health and Safety Administration (reference 29 CFR 1910.266 App A). Security is needed so that people don't hurt themselves with something stored in the kit (although this may seem unlikely). Therefore security of the kit and its contents needs to be addressed. The policy is needed to address implementation of the requirement at that particular provider agency.
8.11. Autopsies: the families should not be required to object to a required autopsy. DIDD should seek their prior consent.	TNCO	Chapter 8, Section 8.11	The language has been revised to read as follows: "The Department encourages family members and or legal representatives of persons supported to request an autopsy for deaths that are unexpected and unexplained. These autopsies will be performed without cost to the family or legal representative. In the event the family or legal representative objects to the autopsy, the Department will respect their wishes."

8.8 Primary Provider Responsibilities for Hospitalizations (2) hospitals do not understand the role of ISCs nor do they need to contact them. (4) some ISC agencies are unwilling to include justification for sitter service within the ISP. (6) not the responsibility of the provider agency. There is no comment on the responsibility of the primary provider to inform the day service provider of the hospitalization and results.	TNCO	Chapter 8, Section 8.8 Chapter 10, Section 10.15	The language has been revised to indicate a collaboration between the primary provider and the ISC/CM, see 8.8.5. Providers are required to communicate with one another. Reference Chapter 10, Section 10.15.
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Comment	Source	Policy/Rule/TCA Reference	DIDD Response
A small but laughable item: In 9-1-1 we talk about FAR and FAR reviews. It's a little redundant because FAR is Fiscal Accountability Review. Might be better to look at it another way.	Donald Redden, Developmental Services of Dickson	Chapter 9, Section 9.1	The word "review" has been omitted from the sentence.
9.1. State and federal Governments are responsible for oversight of such programs to ensure that the services funded are meeting the needs of persons.” “Programs” are not defined. Please define. “Funded” – this is not a grant funded system, would be better if stated as “services for which payment is provided” replacing “funded”.	Philip Garner, Buffalo River Services, Inc.	Chapter 9, Section 9.1	The term "programs" means the HCBS waivers. The language has been revised to read as follows: "As the funding entities of HCBS waiver services, State and federal governments are responsible for oversight of such programs to ensure that the services funded for which payment is provided are meeting the needs of persons."
9.3.a.6. Define what “widely available” means – How, to whom, in what method?	Philip Garner, Buffalo River Services, Inc.	Chapter 9, Section 9.3.a.6.	This means that reports about services and supports are publicly available to anyone who is interested in the DIDD system. These can be available on the web site or via request from DIDD staff involved in the particular area of interest.
9.3.a.8. “must highlight positive practices” What is the definition of positive practices? Could this be in the glossary of term?	Philip Garner, Buffalo River Services, Inc.	Chapter 9 ,Section 9.3.a.8	Positive practices are those that are acknowledged by DIDD as promoting system improvement for supports and services.

9.3.c. “Depending on the nature of things, implementation of the provider QI plan may be monitored through follow-up or focused reviews, reassessment during the next scheduled Provider Performance Survey, Regional Provider Support Team (RPST) monitoring and technical assistance, or provider submission of documentation supporting QI plan implementation.” *focused reviews are not defined. A focus review is to target elements of remediation that are identified in the QA survey. Process for focus reviews to be engaged, criteria that requires a focus review should be clarified. “Systemic findings will typically require longer time periods to determine the case of the systemic finding and develop system-wide remediation strategies.. “We do not know what constitutes a “systemic finding”. This term is not described nor referenced to any DIDD Internal Process. Please define systemic finding.	Philip Garner, Buffalo River Services, Inc.	Chapter 9, Section 9.3.c.	A focused review is one that gives attention to a particular area that may have created challenges for a provider. During a QA or other review, if it becomes evident that the provider is experiencing difficulty in a given area, e.g., incident management, then the survey may be expanded to included additional review of that area. Systemic findings at the provider level are those that were problematic across several or all of the sample. Statewide systemic findings are those that reveal themselves across reviews of a group of providers. When this occurs, it is DIDD's responsibility to analyze the cause of the systemic finding and work to find strategies that will help the system as a whole to improve.
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9.6.c. "Remediation of Findings. Designated DIDD Regional Office staff will report findings to the appropriate remediation entities (designated DIDD staff and/or appropriate provider management staff). Appropriate remediation strategies will be implemented. DIDD Regional and Central Office Compliance staff will report findings, remediation activities and remediation timeframes. Remediation actions will be validated by designated DIDD Regional Office staff and by TennCare Quality and Administration staff to ensure successful and timely remediation of findings. *In the old policy, it stated, "A sample of remediation actions will be validated by designated DIDD Regional Office staff" Old Manual Chapter 19.5. This was not reported as a change in the declaration of hearing. It should state a sample of in the new manual. It is better if left with "A sample." Recommend leaving sample in.	Philip Garner, Buffalo River Services, Inc.	Chapter 9, Section 9.6.c.	The DIDD Regional Office validates 100% of remediation actions, not 100% of a sample of remediation actions. Therefore it is not appropriate to refer to a sample.
9.7.b.5. "The DIDD employees will send a copy of the immediate jeopardy notice to the person's ISC/CM." and 6. "The DIDD employee will assure that a RIF is completed and the Investigations Unit is notified of the situation." *The above are newly added statements. We see no real concern with these however. Should be made clear that this is a change in the manual.	Philip Garner, Buffalo River Services, Inc.	Chapter 9, Section 9.7.b.5	Your comment is noted.
9.7.b.8. "If necessary, designated DIDD staff will validate and document corrective actions taken." *Added "If necessary". This is appreciated and agreed with, as it allows some discretionary judgment by DIDD to not add additional burdens if not really needed.	Philip Garner, Buffalo River Services, Inc.	Chapter 9, Section 9.7.b.8.	Thank you for the positive comment.

9.7.b.9. "Survey scores and ratings will be affected by immediate jeopardy findings during a survey, even when timely corrections are implemented." *We do not concur that every situation of immediate jeopardy should affect the survey scores and ratings. Some things might be beyond the provider's ability to change. This should be changed from "will be" to "may be". Or better yet. "Survey scores and ratings have the potential to be adversely affected by a finding(s) of immediate jeopardy during a survey even with timely corrections."	Philip Garner, Buffalo River Services, Inc.	Chapter 9, Section 9.7.b.9	The language has been revised to read as follows: "Survey scores and ratings may be affected by immediate jeopardy findings during a survey, even when timely corrections are implemented."
9.8.b. "Provider Initiated Satisfaction Surveys. Provider agencies are required to conduct person surveys and use the information obtained to improve the quality of services and supports. For support coordination agencies, evaluation of person satisfaction with independent support coordination services occurs with completion of required service documentation forms described elsewhere in this manual." *There are no forms described elsewhere regarding this in the manual that we can find. If there are forms, please include or suggest resources for finding the forms.	Philip Garner, Buffalo River Services, Inc.	Chapter 9, Section 9.8.b	The form being referenced is the Support Coordination Monthly Documentation Form, which is only used by ISCs. A specific reference to the form has been inserted in the Provider Manual and instructions on locating the form on the DIDD web site has been added in a footnote. On the form, question #4 asks about level of satisfaction with the provision of all current services. Providers are required to complete an annual satisfaction survey which is reviewed during DIDD Provider Performance Surveys. Development of the satisfaction survey is the agency's responsibility. .



9.9. “Both complaint and I&I data are utilized to monitor compliance with the federally mandated health and welfare assurance and related CMS approved performance measures. The I&I database also provides information relevant to court compliance and provider performance, information on incidents and investigations is used to determine if more frequent provider monitoring or provider technical assistance is warranted.” *I&I is not defined other than through interpretation of context. This should be defined and included in the glossary.	Philip Garner, Buffalo River Services, Inc.	Chapter 9, Section 9.9	This is defined in the Acronym List.
9.9. Incident Management and Customer Focused Services. *Customer-Focused Services was called Complaint Resolution in the old manual. We have no concerns regarding the name change. 9.9.a. “Customer-Focused Services Data. Complaints are handled by the Customer Focused Service Coordinators in the regions of the state. The Assistant Statewide Director of Customer Focused Services monitors all complaints via the DIDD database to ensure timely and satisfactory resolution. Providers are required to establish a complaint resolution process to address complaints submitted by persons using services and families. Providers are also required to have an identified complaints contact person and to maintain documentation of al complaints filed.”*In the old manual, the DIDD Central Office was the contact for handling complaints or the Regional Office. It now excludes the Central Office. This is acceptable but a notable change that should be included in disclosure and future training.	Philip Garner, Buffalo River Services, Inc.	Chapter 9, Section 9.9.a.	Your comment is noted.

9.10. Death Reviews. "Death Reviews are conducted by DIDD Regional Death Review Committees for all unexpected and unexplained deaths. The 90.1.2 Death Review Policy is available on the DIDD web site." *In the old manual the procedures were included in the manual and now they are made separate as part of DIDD internal documents for process and procedures. It is a concern that this allows for changes and edits to the process which will not allow proper notification and education of providers without the administrative hearing process. It is suggested that if procedures of this type are to be cited as the guiding route to interpret a DIDD policy in the Provider Manual that it should be included in the manual and not in a separate location.	Philip Garner, Buffalo River Services, Inc.	Chapter 9, Section 9.10	The Death Review Policy 90.1.2 is available on the DIDD website and a link to this page is provided in the manual.
9.12.b. "Statewide Quality Management Committee. The SOMC is comprised of management level staff of all units within the Central Office and includes representation from each Regional Office. This group reviews statewide data to determine trends and initiate follow up actions if warranted. Additionally, information as to actions taken by the RQMC is response to specific provider performance or other issues is reported to the SQMC, which ensures statewide consistency and maintains oversight of regional QM activities." *It is believed that there should be an expectation of how often the SQMC will meet annually and/or monthly.	Philip Garner, Buffalo River Services, Inc.	Chapter 9, Section 9.12.b.	The language has been revised to read as follows: "This group meets monthly and reviews statewide data to determine trends and initiate follow up actions if warranted".
9.13. Technical Assistance. *Recommended TA was eliminated and we consider this an appropriate action. Thank you.	Philip Garner, Buffalo River Services, Inc.	Chapter 9, Section 9.13	Thank you for the positive comment.

9.13.c.2. There is confusion with “serious deficiencies” and “significant concerns” *In the old manual it states: “2)An overall performance rating of “Serious Concerns” or “Significant Deficiencies” is determined during a Provider Performance Review”. It is recommended to decide on consistent language.	Philip Garner, Buffalo River Services, Inc.	Chapter 9, Section 9.13.c.2	Serious Deficiencies and Significant Concerns are distinct performance ratings. The scores that coincide with each performance rating category are defined on the Annual Quality Assurance Survey Report Card. This document can be obtained on the DIDD web site, Quality Management page, under Survey Instruments.
9.13.c.7. “Other serious issues identified through any monitoring activity that are equivalent to those listed above in terms of effect on persons served or ability to operate as a provider agency.” *This is entirely new. It leaves too many unexplained terms open to interpretation. The phrase “any monitoring activity” could be applied to many situations and would create confusion with various stakeholders. The phrase “other serious issues” is also far too broad. This statement is an obvious attempt to be all inclusive of any situation that might arise that the DIDD has not accounted for. The intent is appreciated by this requires further explanation. Please describe and give examples of “other serious issues”.	Philip Garner, Buffalo River Services, Inc.	Chapter 9, Section 9.13.c.7	While an exhaustive list cannot be provided, an example might be results of a General Wellness Review that is initiated as a result of something identified from review of protection from harm data such as suspected under reporting or an unusual spike in substantiated abuse, neglect or exploitation allegations; or a change in the leadership of the agency; or increased reports of complaints, environmental issues, etc. MTA cannot be limited to only results from annual QA reviews. Per the Provider Agreement, every provider is subject to unfettered monitoring.
9.13.d. Notification now includes the “right to appeal”. It is agreeable and appreciated.	Philip Garner, Buffalo River Services, Inc.	Chapter 9, Section 9.13.d	Thank you for the positive comment.

9.13.f.2. The term “provider” does not clarify what provider. There are two providers in this scenario, 1) the provider seeking technical assistance and 2) the potential provider giving the technical assistance. Which one submits to the RPST Coordinator the plan?	Philip Garner, Buffalo River Services, Inc.	Chapter 9, Section 9.13.f.2	The language has been revised to read as follows: "The provider that will receive TA will submit to the RPST Coordinator the external technical assistance provider’s plan for assisting the agency to achieve compliance and the indicators or measures the provider will use to track progress in achieving compliance."
9.13.f.3. The provider requiring technical assistance should be told for sure if the plan is accepted or not. It is not adequate to leave the provider not knowing if the plan is acceptable and left to assume that it is.	Philip Garner, Buffalo River Services, Inc.	Chapter 9, Section 9.13.f..3	Section 9.13.f.3 addresses the question. The Provider Manual states, "The RQMC may accept or reject all or part of the technical assistance plan developed by the external technical assistance provider. If all or part of the plan is rejected, the provider will be notified of revisions needed for the plan to be acceptable".
9.13.g.3. A method for determining the date of reporting monthly should be described.	Philip Garner, Buffalo River Services, Inc.	Chapter 9, Section 9.13.g.3	The Provider Manual states, "3. According to timeframes established in the Provider Support Plan, the provider will submit data to the RPST specific to progress toward compliance on the QI plan." The TA plan will include specific reporting timeframes.

9.13.g.5 “A validation review will be scheduled to assess the provider’s progress as determine by the RQMC. A validation will be utilized and consist of a subset of essential quality elements from the QA Survey Tool and will be customized to the provider based on the performance issues which have resulted in MTA.” *What is the validation tool? Who constructs the tool? How will it be scored or weighed? If it is used it should be processed via the administrative procedures due process. The statement should be at least stated that the validation tool will only include areas from the Survey Tool that are problematic as discovered during the QA survey as part of the customization. The tool should be shared and a conciliation process done with the provider in question that the validation tool is appropriate prior to the use of.	Philip Garner, Buffalo River Services, Inc.	Chapter 9, Section 9.13.g.5	The Provider Manual has been revised to read as follows: "5. A validation review will be scheduled to assess the provider’s progress as determined by the RQMC. A validation tool will be utilized and consist of a subset of essential quality elements from the QA Survey Tool; and will be customized to the provider based on the performance issues which have resulted in MTA. The validation tool is individually designed for the provider requiring technical assistance. It consists only of outcomes and indicators and interpretive guidance taken from the QA Survey Tool. It is not a new QA tool or checklist."
9.13.h. “compliance” is broad and not explained as a term. A lot rides on this. Compliance, as a described outcome for the process, needs further definition.	Philip Garner, Buffalo River Services, Inc.	Chapter 9, Section 9.13.h.	The Provider Manual has been revised to read as follows: "Technical assistance will be concluded when the provider has achieved compliance with the outcomes described in the QI Plan and SQMC has given approval."
Conclusion: Jim Henry signed a policy on Sanctions March 15th, 2013 policy #80.4.6 that states it supersedes policy P-003. If the P-003 is superseded by #80.4.6, then P-003 it should not be listed. Policy #80.4.6 and P-003 are both referenced on the bottom of 9.14 of the newly drafted manual. They are both active on the DIDD website.	Philip Garner, Buffalo River Services, Inc.	Chapter 9, Section 9.14	This is correct, both policies are active. Policy 80.4.6 supercedes P-003, section 5. However, the section on recoupment is in effect. Once a revised Recoupment Policy is finalized, policy P-003 will be rescinded. A policy on recoupment has been drafted and is currently under review.

9.5.h. Provider Response to Provider Performance Surveys. The provider agency executive director shall be held responsible for ensuring that the internal QI plan is revised to address survey findings, as appropriate. - If you are going to call out specific positions (e.g., executive director), you should also give the specific state position that is going to hold him/her responsible. You hold the agency accountable. You don't hold named positions within the agency responsible.	Donald Redden, Developmental Services of Dickson	Chapter 9, Section 9.5.h.	The language has been revised to read as follows: "The provider agency shall be held responsible for ensuring that the internal QI plan is revised to address survey findings, as appropriate."
Figure 9.3.1 The Quality Management Service Circle: unhelpful	TNCO	9.3.1	Your comment is noted.
9.3.a.8. "must highlight positive practices" we applaud this idea and would like to see it as real focus of DIDD.	TNCO	9.3.a.8	Your comment is appreciated.
9.3.c. QMS Remediation of Findings: "Focused reviews" are not defined. Criteria that require a focus review should be clarified.	TNCO	9.3.c	A focused review is one that gives attention to a particular area that may have created challenges for a provider. During a QA or other review, if it becomes evident that the provider is experiencing difficulty in a given area, e.g., incident management, then the survey may be expanded to include additional review of that area. Systemic findings at the provider level are those that were problematic across several or all of the sample. Statewide systemic findings are those that reveal themselves across reviews of a group of providers. When this occurs, it is DIDD's responsibility to analyze the cause of the systemic finding and work to find strategies that will help the system as a whole to improve.

9.5.c Frequency of Surveys: the Provider Manual should describe the “specific criteria for making decisions about the frequency of monitoring.”	TNCO	9.5.c	The Provider Manual has been revised to read as follows: "9.5.c. Frequency of Surveys. DIDD QA staffs conduct annual surveys of all providers. Less frequent surveys may be conducted for provider agencies demonstrating ongoing proficient or exceptional performance in overall operation. When a provider achieves Three or Four Star status, DIDD reduces the frequency of monitoring for the next review cycle. DIDD may determine that more frequent surveys are necessary to evaluate provider performance in ensuring health, safety and welfare of people using services or to determine resolution of serious compliance issues."
9.6.c. “Remediation of Findings: “Remediation actions will be validated by designated DIDD Regional Office staff and by TennCare Quality and Administration staff to ensure successful and timely remediation of findings.” In the old policy, it stated, “A sample of remediation actions will be validated by designated DIDD Regional Office staff” Old Manual Chapter 19.5. This was not reported as a change in the declaration of hearing. It should state “a sample of” in the new manual.	TNCO	9.6.c	While an exhaustive list cannot be provided, an example might be results of a General Wellness Review that is initiated as a result of something identified from review of protection from harm data such as suspected under reporting or an unusual spike in substantiated abuse, neglect or exploitation allegations; or a change in the leadership of the agency; or increased reports of complaints, environmental issues, etc. MTA cannot be limited to only results from annual QA reviews. Per the Provider Agreement, every provider is subject to unfettered monitoring.

9.7.b Immediate Jeopardy Procedures: informal appeal procedures should be specified in the Provider Manual. 9.7.b.8 “If necessary, designated DIDD staff will validate and document corrective actions taken.” Added “if necessary”. This is appreciated and agreed with, as it allows some discretionary judgment by DIDD to not add additional burdens if not really needed. 9.7.b.9 “Survey scores and ratings will be affected by immediate jeopardy findings during a survey, even when timely corrections are implemented.” We do not concur that every situation of immediate jeopardy should affect the survey scores and ratings. Some things might be beyond the provider’s ability to change. This should be changed from “will be” to “may be”.	TNCO	9.7.b	The language has been revised to read as follows: "Survey scores and ratings may be affected by immediate jeopardy findings during a survey, even when timely corrections are implemented."
9.8.b. Provider Initiated Satisfaction Surveys: reference is made to “forms described elsewhere in this manual.” There are no forms described elsewhere regarding this in the manual that we can find. Do state case managers conduct satisfaction surveys? This should be required.	TNCO	9.8.b	The form being referenced is the Support Coordination Monthly Documentation Form, which is only used by ISCs. A specific reference to the form has been inserted in the Provider Manual and instructions on locating the form on the DIDD web site has been added in a footnote. On the form, question #4 asks about level of satisfaction with the provision of all current services. Providers are required to complete an annual satisfaction survey which is reviewed during DIDD Provider Performance Surveys. Development of the satisfaction survey is the agency's responsibility.



9.9.a. Customer-Focused Services Data: in the old manual the DIDD Central Office was the contact for handling complaints or the Regional Office. It now excludes the Central Office. This is acceptable but a notable change that should be included in disclosure and future training.	TNCO	9.9.a	Your comment is noted.
9.10 Death Reviews: this information used to be included in the Provider Manual. We are concerned that if too much information is stored outside the manual important information/requirements will be overlooked.	TNCO	Chapter 9, Section 10	The Death Review Policy 90.1.2 is available on the DIDD website and a link to this page is provided in the manual.
9.12.b. Statewide Quality Management Committee: it is thought that there should be an expectation of how often the SQMC will meet annually and/or monthly.	TNCO	9.12.b	The language has been revised to read as follows: "This group meets monthly and reviews statewide data to determine trends and initiate follow up actions if warranted".

Comment	Source	Policy/Rule/TCA Reference	DIDD Response
Chapter 10 – Creation and Maintenance of Provider Records. Section 10.5.23 & 24: Lists the Health Care Oversight and PSR are still listed as required in the Comprehensive Record. Theses documents are no longer required.	Nancy Thiessen, Comcare, Inc.	Chapter 10, Section 10.5.23	Inclusion of the Physical Status Reviews and Health Care Oversight Forms in the Provider Manual was an oversight, they have been removed.
Chapter 10. Section 10.5.36 & 37: Lists the Annual Physical and Annual Dental. These consults are not required on an annual basis, but are determined by the medical provider.	Nancy Thiessen, Comcare, Inc.	Chapter, Section 10.5.36, Section 10.5.37	Table 8.3-1 refers to the schedule for annual physicals. In most cases, annual physicals are required unless otherwise determined by the PCP. In regard to dental services, "Persons supported shall have access to dental services as needed. Regular contact with the dentist is essential to maintenance of best possible health."
Chapter 10 Records Section 10.2.b.6. Comment “Providers must maintain original (e.g. paper or electronic) document for the services provided by their employment staff.” Some documents are originally created via paper. Others are created originally via electronic methods. Example, our ISP is created electronically (electronic original) but the ISP signature sheet is a paper original that we later convert to an electronic copy. Question: Does this mean that if a document is created originally via paper (ISP signature sheet) that the paper has to be retained, even if that document has been converted into an electronic document?	Community Network Services LLC	Chapter 10, Section 10.2.b..6.	No, these requirements are outlined in Section A. 10.g of the Provider Agreement.

10.2.a. Requirements Applicable to Creation of Records. 10. Abbreviations, acronyms and symbols other than those listed as acceptable standard abbreviations (see Appendix A) either must not be used, or if used, must be spelled out in complete form followed with the abbreviation, acronym or symbol in parenthesis. – This will prove to be a very difficult, if not impossible, requirement to achieve. First, the approved list in Appendix A appears to be primarily terms that appear in a provider manual, not in DSP notes. In order not to reveal the identity of another person(s) supported, DSPs often use initials in reporting issues. They also use many abbreviations in completing MARs – as they are taught to do in Medication Administration training. Nurses, therapists, etc. use abbreviations as part of their professional jargon. While it might be possible to reduce the use of abbreviations, this requirement, if promulgated, will always be an area of non-compliance. Do we really want a provider manual to contain such contradictory material?	Donald Redden, Developmental Services of Dickson County	Chapter 10, Section 10.2.a.	In the health care context, abbreviations are used in records in order to communicate information efficiently. It is accepted and common practice for health care systems to implement standard abbreviations, which reduces the likelihood of errors and miscommunication. The abbreviations used in completing MARs are standardized and DSPs should use those abbreviations. The language has been revised to read as follows: "10. Abbreviations, acronyms and symbols other than those listed as acceptable standard abbreviations in Appendix A or in the Medication Administration training either must not be used, or if used, must be spelled out in complete form followed with the abbreviation, acronym or symbol in parenthesis. It is acceptable to abbreviate a person's name in order to maintain confidentiality." Your comment has been noted.
Chapter 10 Creation and Maintenance of Provider Records:10.7. The Support Coordination Record: (referencing items numbered 1. through 23. )2. Obtaining reports from every medical or other consult is an unnecessary and burdensome requirement. ISCs do not arrange these consults and do not accompany persons on such consults. This requires the ISC to know about every encounter the person has with a medical or other professional and to obtain a copy of any report from such an encounter regardless of the significance of the consultation. In revising and adopting the current Provider Periodic (Monthly) Review, the DIDD committed to discontinuing this requirement for ISCs in favor of these encounters (consults) being summarized by the providers in their monthly reviews when the consult results in some significant, important change for the person and impacts the content of the current ISP and the construct of the person's services.	TASC (Tennessee Alliance of Support Coordinators)	Chapter 10, Section 10.7.2.	This section refers to "all documents and information pertaining to developing and monitoring implementation of the ISP." If the consultations are related to implementation and monitoring of the ISP, the ISC should be aware of such information.

4. This should be restated to acknowledge that the Bureau of TennCare will be replacing the DH (and DHS's forms) as the entity to determine financial eligibility in the near future.	TASC (Tennessee Alliance of Support Coordinators)	Chapter 10, Section 10.7.4	The language has been revised to read as follows: "DHS Form 2350 and 2362 (or such forms as required for eligibility) for a three-year period."
7. & 8. Does either of these items address the requirement for having an annual, or some other periodic physical exam on file for every Waiver enrollee? Number 7 (the AMAP) does not apply in every case? Number 8 applies only to the last annual physical exam performed prior to a person's transfer from a state-run ICF/ID to the HCBS waiver? Where is the perennial requirement for each person to have an annual physical exam in the ISC's record?	TASC (Tennessee Alliance of Support Coordinators)	Chapter 10 Section 10.7.7, Section 10.7.8.	The language has been clarified to read as follows: 6. The dental examination. 7. The Annual Medical and Assessment Plan, (for developmental center transitions, as applicable). 8. The annual physical unless otherwise indicated by the physician. See Table 8.3.1 for additional details.
9. This is redundant with item number 22. (i.e., orders of conservatorship). Also should include orders of guardianship in cases of minors where applicable.	TASC (Tennessee Alliance of Support Coordinators)	Chapter 10, Section 10.7.9.	Concur. #9 has been deleted and #23 has been revised to include guardianship.
11. What is "critical health and safety" information, and how would it be separate and distinct from any significant health and safety information required to be included in the person's ISP? This seems superfluous and unnecessary as a stand-alone content requirement for the ISC record. If the DIDD anticipates this information to stand alone from information required in the person's ISP, then the content of such critical information should be more clearly defined with instructions on how to separate and distinguish it in the record.	TASC (Tennessee Alliance of Support Coordinators)	Chapter 10, Section 10.7.11.	For ISCs, there is not a difference between significant health and safety information in the ISP and critical health and safety information filed in the record. In addition, note that this is not a new requirement.

12. Other than the required contact information contained in the person's ISP (to include the person's legal representative and next of kin), what other "emergency contact" information would the DIDD expect to see in the ISC record? If this is a different type of contact information than the contact information required by the DIDD in the person's ISP, then the DIDD should specify what is meant by "emergency contact" information to distinguish from the information found in the person's ISP.	TASC (Tennessee Alliance of Support Coordinators)	Chapter 10, Section 10.7.12	This is not a new requirement. The two (2) contacts on the ISP should be sufficient as long as the information is current.
17. & 21. These two items should be combined into one item. The ISC's monthly review and the "required ISC Documentation forms" are a single element of the ISC record. This documentation includes and could be stated in one item as: "Required documentation of ISC face-to-face contacts, monthly reviews and other required ISC service activity".	TASC (Tennessee Alliance of Support Coordinators)	Chapter 10, Section 10.7.17., Section 10.7.21.	This recommendation was discussed and it was decided to list each element because they are distinct activities that are documented separately. ISC documentation forms are listed on the DIDD web site, Provider Info page under Forms and Tools, ISC Monthly Documentation. There are links to ISC forms in the Provider Manual.
22. This should state provider "periodic" review, not monthly review.	TASC (Tennessee Alliance of Support Coordinators)	Chapter 10, Section 10.7.22.	This change has been made.
23. This is redundant with number 9. (i.e., orders of conservatorship).	TASC (Tennessee Alliance of Support Coordinators)	Chapter 10, Section 10.7.23	Concur. #9 has been deleted and #23 has been revised to include guardianship.

10.5.36,37 Physical and dental as doctor recommends not necessarily annually.	Beth Dunning, Waves, Inc.	Chapter 10, Section 10.5.36, Section 10.5.37.	The language has been clarified to read as follows: 6. The dental examination. 7. The Annual Medical and Assessment Plan, (for developmental center transitions, as applicable). 8. The annual physical unless otherwise indicated by the physician. See Table 8.3.1 for additional details.
10.5.a. Responsibility for Maintaining Persons' Comprehensive Records: we feel the primary provider should not be held accountable to the 2-hour rule for another provider's information - this could be misconstrued by a surveyor as well. The clarification on this in that paragraph seems to contradict that requirement as well - the 2-hour rule should be removed.	TNCO	Chapter 10, Section 5.a	Your comment is noted, however the manual explains that "The primary provider's responsibility in obtaining requested information for auditors/surveyors from other service providers is generally limited to being able to provide correct information to the individual requesting the documentation so that person may initiate contact with the provider responsible for maintaining the portion of the record being requested."
10.5. 23.-24. Health Care Oversight and PSR still are required in Comprehensive Record (not in Nursing Record). Weren't they deleted except for the PSR in certain cases?	TNCO	Chapter 10, Sections 5, 23-24	Inclusion of the Physical Status Reviews and Health Care Oversight Forms in the Provider Manual was an oversight, they have been removed.

10.5.36, 37. Physical and Dental still listed as annual, not as doctor recommends.	TNCO	Chapter 10, Section 5	The language has been clarified to read as follows: 6. The dental examination. 7. The Annual Medical and Assessment Plan, (for developmental center transitions, as applicable). 8. The annual physical unless otherwise indicated by the physician. See Table 8.3.1 for additional details.
10.5.c Staff Communication Notes: DIDD should develop a statement of its expectation of how agencies should share communication about the individual when the day and residential providers are different. (7) sign in logs should be sufficient.	TNCO	Chapter 10, Section 5.c	Persons supported in the DIDD waiver programs receive services from multiple providers. Therefore it is essential that providers communicate with one another. Once example of communication involves coordinating clinical and therapeutic services, referecne Chapter 8, Section 8.4(2) regarding scheduling appointments and 8.8 regarding the primary provider's responsibility for hospitalization. Another example of this communication is exchanging records, reference Chapter 10, Section 10.15. To ensure integration of services, communication must occur between providers who may be involved with providing services and supports to the same person. While it is possible to require that communication between providers occur in specific circumstances, it is not possible to define all the circumstances under which communication should occur between providers. The Department encourages providers who are having difficulty communicating with another provider to contact the person's ISC/CM for assistance with coordinating services and if that does not suffice, to contact the DIDD Regional Office for assistance in mediating the issue.

10.6. Personal property inventory is not listed in comprehensive nor residential record.	TNCO	Chapter 10, Section 6	Providers are required to comply with policy 80.4.3 Personal Funds Management as indicated in Chapter 5 Section 11.9.
10.7 ISC record should contain photo of the person supported.	TNCO	Chapter 10, Section 7	A current photo of the person supported has been added to the list.
10.8.b. Behavior service records should contain training documentation as therapeutic records do.	TNCO	Chapter 10, Section 8.b	Training documentation has been added to the Behavior service records listing.



Comment	Source	Policy/Rule/TCA Reference	DIDD Response
I'm Tonya Copeland with, Evergreen Life Services and also representing TENNCO. I'm going to take -- primarily my comments are going to come from chapter 11. I'll try to reference the sections for you all. 11.1, Residential Services Requirements. The restrictions on semi-independent living to the SD waiver is what seems to be shortsighted and would prevent persons from taking advantage of the cost-saving services in the other waiver.	Tonya Copeland, Evergreen Presbyterian Life Services and TNCO	Chapter 11 Section 11.1	Your comment is noted. If an individuals needs SIL Services, he or she may transition to the SD waiver to receive the service.
11.13. Does the requirement to maintain 48-hour food supply to semi-independent -- apply to semi-independent as well? This could be problematic, as a provider agency has less of a presence, therefore less of an ability to control in the person who's living in the semi-independent structure.	Tonya Copeland, Evergreen Presbyterian Life Services and TNCO	Chapter 11 Section 11.1.3	No, providers are not required to maintain a 48-hour food supply in Semi-Independent Living Services residences. However, the provider should ensure the person understands the importance of having an adequate supply of healthy food available in the home. In addition, the ISP should reflect any needs, supports and risks that may exist for a person in SIL Services, to include proper diet and nutrition, as appropriate.
11.1.a. Requirements Applicable to Residential Rehabilitation Providers. While we can understand limiting the people who lease homes, this could limit options for providers in areas where housing is normally prohibited or costs. There could be a provision in this section with certain restrictions to assure the persons supported are not being taken advantage of while also maintaining a number of options in an already tight housing market in certain areas.	Tonya Copeland, Evergreen Presbyterian Life Services and TNCO	Chapter 11 Section 11.1.a	Upon the effective date of this Provider Manual, requests for an exemption to this requirement may be submitted in accordance with policy 30.1.6 Exemption Process, which is available on the DIDD web site Policies and Procedures home page.

11.1.b, Requirements Applicable to Family Model Services Supports. There is an increase in the number of supervisory visits to the family-based home from one a month to two a month. Supervisory visits should be a function of the agency and determined based on the needs of the particular home. It shouldn't be prescriptive. There may be homes that an agency supports that may need five visits a month rather than two visits a month. Those prescriptions should be based -- left up to the agency who's contracting with DIDD.	Tonya Copeland, Evergreen Presbyterian Life Services and TNCO	Chapter 11 Section 11.1.b	Based on a review of DIDD quality data, it was determined that increased visits were needed.
11.1.d., Requirements Applicable to Supportive Living Services. When terminating an employee, agencies oftentimes, even when at odds with a conservator, a person supported must move forward with the termination. How will this be viewed and handled by the state when the person supported disagrees with the termination? Ultimately, the agency as the employing entity still has ultimate responsibility for the employee and their actions. We ask that termination approval by the individual and conservator be removed.	Tonya Copeland, Evergreen Presbyterian Life Services and TNCO	Chapter 11 Section 11.1.d	We concur. The language has been revised to read as follows, "Involvement in the hiring and evaluation of direct support staff, including the opportunity to meet direct support staff prior to hire, and be fully informed of the termination of employment of direct support staff."
8 in that same section, providers often cannot control the terms of a notice, especially if a person moves into an apartment community. Many of the apartment communities have their own standard lease requirements and will not change. Landlords are ultimately required to provide a 60-day notice so a lease is a moot point.	Tonya Copeland, Evergreen Presbyterian Life Services and TNCO	Chapter 11 Section 11.1.d	Your comment has been noted.
Back to 11.1.b, as a requirement of the family model, supports, there's question. Would the requirement to keep a personnel file include a family member who was considered as a natural support and only provides intermittent support? That's all I have at this point.	Tonya Copeland, Evergreen Presbyterian Life Services and TNCO	Chapter 11 Section 11.1.b	Yes, the requirement is applicable.

My name is Jay Camperlino from Miller Rich. I just want to commend the department already for taking some language out of the Provider Manual that greatly affected the family model services. Chapter 11 described the limitations of family-based providers being able to provide community-based day services. We felt that that was limiting the choices of the individuals and the conservators, so we've already seen a great effort of the department recognizing this feedback.	Jay Camperlino, Millar Rich	Chapter 11	Your comment has been noted.
I would continue to ask the department to look within that same chapter, chapter 11, regarding the language of allowing family-based providers to be conservators and/or representative payees. We believe that this is going to be a very difficult task to enforce just because of --Social Security is the one who recognizes representative payees, and the courts appoint conservators. Although we understand the intention of this language and will support it, I would certainly make the recommendation that maybe this be something that's grandfathered in because I think it's going to take a lot of work going back and fixing some of those situations that are already out there.	Jay Camperlino, Millar Rich	Chapter 11	The provider agency may serve as the rep payee for the persons supported; individuals residing in the home may not. There are no plans to grandfather in family model provider families that currently serve as rep payee. There is an FMRS task force that is discussing implementation of those changes.
Lastly, I would just like to comment on community-based day services. This is going to continue to be an issue that we have as an organization and probably a provider network in meeting some of those requirements. It currently seems that community-based day services are limited between Monday through Friday, and there's no encouragement to participate in activities on the weekends. I would simply suggest potentially considering expanding the community-based day service time frame through seven days a week. It may have been discussed previously, but at least that would allow some flexibility for the individuals who don't wish to get out during the standard workweek and participate in activities on the weekend. Thank you.	Jay Camperlino, Millar Rich		Opportunities for participation in community activities is not solely relegated to CBD. It is also the responsibility of residential service providers as stated in the current and proposed provider manual.

Chapter 11 – Residential and Day Services. Section 11.1.d: Requirements Applicable to Supported Living. Services #2 is not consistent with other requirements in the Manual. There are many personal issues that an agency has to deal with that cannot be shared with others as they would violate confidentiality and would set the agency up for liability issues.	Nancy Thiessen, Comcare, Inc.	Chapter 11 Section 11.1.d	The language has been revised to read as follows: "Involvement in the hiring and evaluation of direct support staff, including the opportunity to meet direct support staff prior to hire, and to the degree possible, approving be fully informed of the termination of employment of direct support staff."
Chapter 11 Residential and Day Services. Section 11.1.b. The increased supervisory visits specifically on holidays and weekends is a contradiction to the definition of family based. In a family you are generally engaged in activities during these times and a visit would be very intrusive or there would be nobody at the home to visit.	Jennifer Enderson, Emory Valley Center	Chapter 11 Section 11.1.b.	The increased supervisory visits are intended to add more oversight which is needed according to DIDD quality data reviews. The manual does not specify that these visits occur on weekends and holidays.
11.1.d.1. Lease Requirements Applicable to Supported Living Services. 7. The owner of a supported living home may not be an employee or board member employed or appointed by the supported living provider. The owner of a supported living home may not be an employee or board member of an agency that provides the support, but it can be the agency itself. Does that make sense?	Donald Redden, Developmental Services of Dickson County	Chapter 11 Section 11.1.d.1.	The purpose of the policy is to avoid the conflict of interest that would occur if this practice were allowed.
8. The lease must provide for a sixty (60) day notice to the person supported prior to termination of the lease agreement or increase in the rent or lease amount. – While this might sound like a good idea to someone who is not directly involved in service delivery, it will significantly limit the housing options available to people. Many of the apartment complexes have specific leases which they require all tenants to sign. We have not found any flexibility in their leasing decisions. The concern with a 60 day notice of termination is probably not the problem that it may appear. People cannot be evicted without notice, so there can be at least 60 days prior to any eviction.	Donald Redden, Developmental Services of Dickson County	Chapter 11 Section 11.1.d.1	The language has been revised to read as follows: "The lease must provide for a thirty (30) day notice to the person supported prior to termination of the lease agreement (unless the county of residence requires a longer period by statute) and a thirty (30) day notice to the person supported prior to an increase in the rent or lease amount."

11.2. Day Services. In-Home Day Services: Retirement may be chosen and should be based on Social Security age eligibility standards when the COS feels it appropriate. - This statement would lead the reader to believe that retirement could only occur at the earliest Social Security retirement age of 62. That does not describe how retirement is being approved for this service. Rather the minimum age has appeared to be 55.	Donald Redden, Developmental Services of Dickson County	Chapter 11 Section 11.2	The Provider Manual was revised for clarification, as follows: "If the reason for the request for In-home Day Services is retirement then the information in the ISP should indicate that the person was employed and has chosen retirement. It is not necessary that the person be official retirement age according to Social Security guidelines."
11.1 Residential and Day: Semi-independent should be available to all waivers	Beth Dunning, Waves, Inc.	Chapter 11 Section 11.1.	Your comment is noted. If an individuals needs SIL Services, he or she may transition to the SD waiver to receive the service.
11.1.d.1 Lease requirements: One conservator company is refusing to sign leases, this needs to be addressed	Beth Dunning, Waves, Inc.	Chapter 11 Section 11.1.d.1.	Conservators signing a lease is only appropriate if the conservatorship order grants control over the person's finances. Provider agencies need to understand the scope of the conservatorship before asking the conservator to sign a lease.
11.1.d.1 Requirements applicable to Supported Living: agency has situations where an employee must be terminated for due cause but it is against the wishes or the individual served or conservator. Asking that termination approval by the individual /conservator be removed.	Beth Dunning, Waves, Inc.	Chapter 11 Section 11.1.d.1.	We concur. The language has been revised to read as follows, "Involvement in the hiring and evaluation of direct support staff, including the opportunity to meet direct support staff prior to hire, and be fully informed of the termination of employment of direct support staff."
11.1.g Staffing Plans; they are not useful or meaningful. I believe they were originally created to identify how a provider was going to staff a home when staffing ratios were no longer mandated.	Beth Dunning, Waves, Inc.	Chapter 11 Section 11.1.g.	Do not concur. Staffing plans continue to be required.

11.2.b Definition of natural supports too confining and would appear to disrupt the natural flow of those who would like to be a natural support.	Beth Dunning, Waves, Inc.	Chapter 11 Section 11.2.b.	The language has been revised to read as follows: "Natural supports are family members and close (constant, stable, steady, long-lasting, and established) friends of the person using services. A natural support can be someone who is relatively new in the life of the person using services. The intent here is to express that a meaningful friendship exists between the person supported and the individual serving as a natural support regardless of the length of time they have known one another."
Other General Comments: There should be a provision for ISC's or Case Managers to be responsible for Provider revenues that are lost due to their neglect or misunderstanding.	Beth Dunning, Waves, Inc.		The Department formally sanctions ISC agencies that fail to submit documents timely, e.g., evaluations/reevaluations for level of care and ISP amendments. The DIDD Office of Business Services works with provider agencies, on a case-by-case basis, to remediate these situations when they arise. Remediation can usually be accomplished through the late rebills/adjustment process. At 4.6, the language has been revised to read as follows: ISC agencies may be sanctioned by DIDD for failing to submit documents required for timely authorization of the ISP or ISP amendments. At 4.10, the language has been revised to read as follows: ISC agencies may be sanctioned by DIDD for failing to timely submit the documents that are required for re-evaluation and re-determination of Medicaid eligibility.

<ul style="list-style-type: none"><li>• 11.1 Residential Services Requirements: the restriction of Semi-Independent Living to the SD Waiver is shortsighted and will prevent people from taking advantage of this cost-saving service.</li><li>• (3) Does the requirement to maintain 48-hour, food supply apply to Semi-Independent as well? This could be problematic, as provider agency has less of a presence, therefore less of an ability to control.</li></ul>	TNCO	Chapter 11, Section 11.1	Your comment is noted. If an individuals needs SIL Services, he or she may transition to the SD waiver to receive the service. No, providers are not required to maintain a 48-hour food supply in Semi-Independent Living Services residences. However, the provider should ensure the person understands the importance of having an adequate supply of healthy food available in the home. In addition, the ISP should reflect any needs, supports and risks that may exist for a person in SIL Services, to include proper diet and nutrition, as appropriate.
<ul style="list-style-type: none"><li>• 11.1.a. Requirements Applicable to Residential Habilitation Providers:</li><li>• we can understand limiting the people who lease homes, this could limit options for providers in areas where housing is normally prohibitive in cost. There could be a provision in this section with certain restrictions to ensure the people supported are not being taken advantage of while also maintaining a number of options in an already tight housing market in certain areas.</li></ul>	TNCO	Chapter 11, Section 11.1.a	Upon the effective date of this Provider Manual, requests for an exemption to this requirement may be submitted in accordance with policy 30.1.6 Exemption Process, which is available on the DIDD web site Policies and Procedures home page.

<ul style="list-style-type: none"><li>• 11.1.b. Requirement Applicable to Family Model Residential Support</li><li>• (1) There is an increase in the number of supervisory visits to the Family-based home for one a month to two a month. Supervisory visits should be a function of the agency, and determined based on needs as determined by the provider agency.</li><li>• (2) Would the requirement to keep a personnel file include a family member who is considered as a natural support and only provides intermittent support?</li><li>• (7) How will those currently serving as rep payee and conservators be addressed? Those already serving should be grandfathered in.</li><li>• (8) Not allowing a person in the home to provide day supports seems counterproductive and eliminates the person's and conservator's choice. This should be determined on a case by case basis with the person's COS. What if you have a person who has a number of medical issues and who does not desire to be cared for by an outside entity, how will that be addressed? The person-centered approach should be used in this instance and not just a blanket rule.</li></ul>	TNCO	Chapter 11, Section 11.1.b	<p>The increased supervisory visits are intended to add more oversight which is needed according to DIDD quality data reviews.</p> <p>Yes, the requirement is applicable.</p> <p>The provider agency may serve as the rep payee for the persons; individuals residing in the home may not. There are no plans to grandfather in family model provider families that currently serve as rep payee. There is an FMRS task force that is discussing implementation of those changes.</p> <p>The language has been revised and the following was deleted from the provider manual: "The provider may serve as the day services provider for the person supported. Individuals residing in the home may not serve as the day services provider."</p>
<ul style="list-style-type: none"><li>• 11.1.d.1 Lease Requirements Applicable to Supported Living Services: (1) one corporate conservator company is forbidding its staff to sign leases. This needs to be addressed by DIDD.</li></ul>	TNCO	Chapter 11 Section 11.1.d.1	<p>Conservators signing a lease is only appropriate if the conservatorship order grants control over the person's finances. Provider agencies need to understand the scope of the conservatorship before asking the conservator to sign a lease.</p>



<ul style="list-style-type: none"> <li>• 11.1.d.1 Requirements Applicable to Supported Living Services</li> <li>• (2) When terminating an employee, the agency oftentimes, even when at odds with conservator or person supported, must move forward with the termination. How will this be viewed and handled by the DIDD when the person supported disagrees with the termination? The agency as the employing entity still has the ultimate responsibility for the employee. We ask that termination approval by the individual/conservator be removed.</li> <li>• (5) How does the provider ultimately control?</li> <li>• (6) Who will be responsible for broken leases when the person or conservator decides to move, especially if a provider has co-signed? Agency should be held harmless.</li> <li>• (8) Providers often cannot control the terms of a notice, especially if a person moves into an apartment community. Many of the apartment communities have their own standard lease requirements, and will not change. Landlords are ultimately required to provide a 60-day notice so what is in the lease is a moot point.</li> </ul>	TNCO	Chapter 11 Section 11.1.d.1	<p>(2) The language has been revised to read as follows, "Involvement in the hiring and evaluation of direct support staff, including the opportunity to meet direct support staff prior to hire, and be fully informed of the termination of employment of direct support staff."</p> <p>(5) This clause is specific to homes for which the provider is the owner or has control over.</p> <p>(6) The person on the lease is legally responsible. The provider is not required to co-sign the lease, but if they do then they are equally responsible.</p>
<ul style="list-style-type: none"> <li>• 11.1g. Staffing Plans: staffing plans are neither helpful nor meaningful.</li> </ul>	TNCO	Chapter 11 Section 11.1.g	Do not concur. Staffing plans continue to be required.
<ul style="list-style-type: none"> <li>• 11.1.h. Home Inspection Requirement: please clarify here that Section 8 approved homes are approved without additional DIDD inspection.</li> </ul>	TNCO	Chapter 11 Section 11.1.h	The language has been revised to read as follows: "Providers may submit a copy of the Section 8 housing inspection to DIDD in lieu of the DIDD housing inspection."

<ul style="list-style-type: none"><li>• 11.2 Day Services</li><li>• Extended in-home services implies we don't need physicians order initially.</li><li>• Would early retirement apply as well?</li></ul>	TNCO	Chapter 11 Section 11.2	<p>The Provider Manual states in Section 11.2, 'Extended in-home services related to medical concerns shall require a physician's order and accompanying documentation in the ISP supporting the provision of in-home services as the most appropriate and viable option.'</p> <p>In addition, the Provider Manual was revised (Section 11.2) for clarification, as follows: "If the reason for the request for In-home Day Services is retirement then the information in the ISP should indicate that the person was employed and has chosen retirement. It is not necessary that the person be official retirement age according to Social Security guidelines."</p>
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<ul style="list-style-type: none"><li>• 11.2.b Requirements and Limitations of Natural Supports : definitions and regulations regarding Natural Supports, Volunteers, Friends, Interns need to be rewritten to make sense for the person and to eliminate contradictions.</li><li>• (3) Inaccurate; job-related, natural supports might help a person clock in or call the agency if work times have changed, not help given to ordinary employees.</li><li>• (5) Why are state-funded providers allowed to bill for services provided by natural supports and waiver-funded providers are not?</li><li>• Who is responsible for documenting education, experience, exposure? Both ISC and provider agency?</li></ul>	TNCO	Chapter 11, Section 11.2.b	<p>Our language surrounding natural supports has been intentionally flexible to offer opportunities for providers to use person centered practices.</p> <p>At this time, our waivers do not authorize the Department to reimburse natural supports for providing the type of assistance outlined in the comment. The Department will take this under consideration for future waiver amendments.</p> <p>There is more leeway regarding the expenditure of state funds while waiver funds are subject to federal requirements.</p> <p>The provider of the service is responsible for documenting education, experience and exposure.</p>
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Comment	Source	Policy/Rule/TCA Reference	DIDD Response
My name is Michael Gavetti. I'm the Chief Clinical Officer for Support Solutions. Right now I'm only just talking about chapter 12. I wanted to talk a little bit about some of the workability parts of chapter 12, sort of at a practical level of the things that we would actually be asked to do as providers. The first one, and one of the things that I think is really most important, is the idea of the cross-systems crisis plan. As a general initiative this is a really good idea, but there are some real workability issues that are sort of associated with it. One of them is the fact that the Provider Manual does not clearly state what specific person or agency holds ultimate responsibility for the creation of this plan. That's really important because what they've got is this sort of blended model where the provider could do a cross -- another plan.	Michael Gavetti, Support Solutions	Chapter 12	The chapter has been revised. The residential provider is responsible for development of the cross-systems crisis plan. If the person supported is not receiving residential services then the primary provider is responsible for creation of the cross-system crisis plan. It is stated in the Provider Manual that it is required that this plan is coordinated with the Behavior Analyst and is consistent with the person's behavioral treatment.
But there could also be this crisis section of the behavior plan and, as we all know, as soon as there's a problem, there's likely to be an investigation, and then there's going to be a question about who held ultimate responsibility forexplaining the crisis procedures to the staff. Because so many of the aspects of chapter 12 now include specific authorization by DIDD to make it happen and be effective, somebody is going to have to take these plans through the process, and unless we specifically identified who holds all responsibility for that, there's going to be a lot of finger pointing about who held the need to take this thing through and get it approved, and make sure the staff was trained. Okay? So whether it goes to the BA, or it goes to the provider, there needs to be a specific answer about who holds ultimate responsibility for that.	Michael Gavetti, Support Solutions	Chapter 12	The chapter has been revised. The residential provider is responsible for development of the cross-systems crisis plan. If the person supported is not receiving residential services then the primary provider is responsible for creation of the cross-system crisis plan. It is stated in the Provider Manual that it is required that this plan is coordinated with the Behavior Analyst and is consistent with the person's behavioral treatment.

I'm also not sure about the workability of having procedures both in this cross-systems crisis plan and in the behavioral plan, because even if you make sure that these plans marry up the very first time they are developed, as soon as either one of those plans is amended, revised or changed, there's a huge potential for there to start to be a discrepancy between the procedures of those plans. I think it makes a lot more sense to have this be all one place or all somewhere else. Okay.	Michael Gavetti, Support Solutions	Chapter 12 Section 12.7.2	Provider agencies are to collaborate with BAs in development of the crisis plan. The responsibility for crisis intervention has been reorganized so that BAs are responsible for the interactional components of crisis intervention and provider agencies are responsible for systemic components of crisis intervention.
Placement of the safety delay in the specialized behavioral safety procedures section is really -- seems very inconsistent to me. This was a thing that was outlined in the TENNCO comments, and I would like to really repeat that as well. Okay. Everything else that's in that section is very restrictive. Okay. Mechanical restraint. A person closed into a room with a staff for 45 minutes, those are very, very restrictive procedures. The idea that you're going to pull somebody out of the community when they're displaying problematic behaviors to let them cool down, I think providers need to be able to do that, and I think they need to be able to do it without the individual approval of the Central Office. We just have to be able to pull people out when they're having a problem, because the way this is written now, without the express approval of Central Office, if somebody is out there punching me in the face screaming, "I want to go to Wal-Mart, I want to go to Wal-Mart," we've got to take them.	Michael Gavetti, Support Solutions	Chapter 12, Section 12.5.a.4	The chapter has been revised. Safety Delay has been re-categorized as a behavior safety intervention and not a specialized behavior safety intervention.
That's just not safe. We need to have that kind of flexibility on a level. Now I also think that it should be limited in time. I think the two-hour limit that they have in the Provider Manual makes a lot of sense. We wouldn't want this to go on forever, but I do think we need the ability to pull people out and let them calm down that way. We're talking about having them in their own homes playing video games, making phone calls, doing what they want. We're not talking about having them locked away in one little closet, but I think we need to be able to pull them out.	Michael Gavetti, Support Solutions	Chapter 12, Section 12.6.4	The chapter has been revised. Safety Delay has been re-categorized as a behavior safety intervention and not a specialized behavior safety intervention. Safety Delay is implemented when there is an imminent risk of harm which allows for some flexibility before an aggressive or self injurious behavior occurs.

<p>The consent for sharing the cross-systems crisis plan is practically unworkable the way it's listed here. Okay. The idea of having information that can be shared with the outside crisis responders, that does make sense to me, but it's sort of a practical impossibility, at least the way it's written here. There's a lot of stuff in that cross-systems crisis plan that is really sensitive stuff, all this personal environmental stuff that might have an impact on this person's behavior. Do they have an abuse history? I don't want to be giving that out to just everybody. That's really sensitive stuff. Okay. But just in Memphis, just from law enforcement I'm going to have to get three separate consents: The City of Memphis Police, Shelby County Police, Tennessee Highway Patrol.</p>	<p>Michael Gavetti, Support Solutions</p>	<p>Chapter 12, Section 12.7.2.c</p>	<p>The Provider Manual reads as follows: "To the extent possible, mobile crisis agencies shall have the opportunity to contribute content to the crisis plan. They may also have a copy of the crisis plan to keep on file if the person supported or the legal representative consents to release the information. Consent is not required to share information during a crisis."</p>
<p>That's just for the cops. Now we've got mobile crisis, we've got paramedics, we've got all the emergency rooms, we've got all the psychiatric centers, and included in all that is the idea that if this person is their own conservator, they can go like this and say I'm withdrawing all my consent, and I can't share it anyway. So the way that that system -- I get it. I applaud the basic idea, but we're going to have to do a lot more work on kind of making that more generally available, because the way it's written now, in practical terms that's hard, and no staff who's right there is going to know, wait a minute, did we get the Tennessee Highway Patrol consent for this guy? Can I share this thing with this person or not, Or I'm not sure. Is it out of date?</p>	<p>Michael Gavetti, Support Solutions</p>	<p>Chapter 12, Section 12.7.2.c</p>	<p>The Provider Manual reads as follows: "To the extent possible, mobile crisis agencies shall have the opportunity to contribute content to the crisis plan. They may also have a copy of the crisis plan to keep on file if the person supported or the legal representative consents to release the information. Consent is not required to share information during a crisis."</p>

When this person is out of control on the side of a highway, direct care staff are not going to be able to know that level of detail. There's a section in chapter 12 about having to do -- every time there's a physical restraint -- And I may be misreading this so please take it in context, but it sounds like every time you do a physical restraint with someone, that you've got to do a post debriefing then and there about what could we have done differently, what else should we have done. The idea that you're going to be able to do that with an appropriate incident management representative and still make the four-hour window to submit the incident report is just, in practical terms, impossible. It's just too much stuff to cram into that window of information when there's so many other things going on.	Michael Gavetti, Support Solutions	Chapter 12, section 12.6.4.f	This section has been revised so that an agency designee may lead the debriefing session, rather than a representative of the IRC. The summary of the debriefing is to be documented in daily notes, rather than the incident report (RIF).
With this person in genuine need the staff needs to kind of have their focus on getting the person through that moment, not by doing these sort of debriefs. I'm not sad about the debrief happening. Please don't think that that's where I'm at with this. I just think it needs to be bumped to a later part of this process when things have calmed down, and we've all got a little distance on it.	Michael Gavetti, Support Solutions	Chapter 12, section 12.6.4.f	This section has been revised so that an agency designee may lead the debriefing session, rather than a representative of the IRC. The summary of the debriefing is to be documented in daily notes, rather than the incident report (RIF).

<p>The respite services, as they define in chapter 12, have fundamentally changed. It is no longer a respite. It has become a treatment center. And I -- I guess I want to know more about has the waiver been amended, because if it hasn't, there are huge changes. The idea that a clinician, a behavior analyst, a psychologist, a -- I do mention nurse -- is going to have to develop a treatment plan, revise that treatment plan on a regular basis; they are going to have to do a discharge plan; they are going to have to do a discharge meeting, there are huge changes, and I'm not sure that the respite, as it was written into the current waiver, is intended as a treatment program. If it is, I would like to know more about that. I'm not sad about having this available as a service within the DIDD system. That's not it, but they're cramming an awful lot of unfunded stuff into this, and I think we need to be leery about doing that in the Provider Manual rather than as an adjustment to the actual waiver.</p>	<p>Michael Gavetti, Support Solutions</p>	<p>Chapter 12, Section 12.8.5-6</p>	<p>The provider manual has been revised to read as follows: Behavioral Respite Services shall mean short-term behavior-oriented services for a person supported who is experiencing a behavioral crisis that requires removal from the current residential setting in order to resolve the behavioral crisis.</p> <p>2. Upon admission to a behavioral respite site, the respite provider shall be provided with or obtain all current physician's orders, medications, and as applicable, the person's dining plan or mealtime instructions and mealtime adaptive equipment.</p> <p>3. In addition, if not provided at the time of admission to the respite site, the following items will be provided to the respite facility, as applicable:</p> <ul style="list-style-type: none"><li>a. Individual Support Plan; and</li><li>b. Behavior Support Plan; and</li><li>c. Cross-Systems Crisis Plan; and</li><li>d. List of appointments that are scheduled for the person.</li></ul> <p>4. Each respite facility shall have a standard data collection system that allows for the recording of behavioral incidents and the person's response to intervention.</p> <p>5. For each person entering Behavioral Respite Services, the agency shall ensure that a clinician (e.g., psychiatrist, psychologist, behavior analyst, behavior specialist, nurse, social worker) is assigned to oversee the supports provided at the respite facility.</p>
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			<p>The clinician shall do the following:</p> <ul style="list-style-type: none"><li>a. Conduct weekly visits to review the clinical record and observe each person supported; and</li><li>b. Complete a weekly progress note that includes the following:<ul style="list-style-type: none"><li>i. A description of the person’s response to supports provided during the respite stay; and</li><li>ii. Description and analysis of behavioral data pertaining to the person supported; and</li><li>iii. An analysis of factors that may have had an impact on the person’s response; and</li><li>iv. Identification of any action steps that may need to be taken to address clinical concerns; and</li><li>v. Individualized treatment instructions for the staff to follow.</li></ul></li></ul> <p>6. A clinician shall also complete a discharge summary for the respite stay. The report shall include a summary of data, summary of interventions used during the stay, and recommendations for improving the quality of life and clinical treatment for the person supported. The report shall also include recommendations for preventing recurrence of behavior that led to the respite stay and shall be provided to the receiving provider at the time of discharge.</p>
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			<p>7. If needed, the person’s BA shall provide training to the agency designee regarding changes to the BSP and/or ISP, following discharge from the respite stay.</p> <p>8. The person’s COS shall review the recommendations from the respite facility and as appropriate, the COS members shall work with the person’s ISC to make any necessary adjustments to the person’s ISP as well as work</p>
<p>Behavior services are now required to report internal personnel issues to the state as part of their QI self-assessment. What that sounds to me like is that internal HR supervisory stuff that is done -- personal employee stuff is going to get turned directly to the state. I think that's a pretty fundamental violation of the staff's rights. A supervisor should be able to talk to</p>	<p>Michael Gavetti, Support Solutions</p>	<p>Chapter 12, Section 12.9.4</p>	<p>The language has been revised to read as follows, “Review of any personnel practices, including staff recruitment and hiring, staff training, and staff retention and turnover.”</p>
<p>the guy and go, listen, you know, not really sure -- you know, like we should be able to give feedback in a way that is not going to get kicked upstairs and reviewed by a lot of people without specific cost. There's a lot of information about what kinds of things continue to be reportable and necessary to report. And those things I think do a good job of protecting the safety of the people in the system, but the idea that every little supervision thing that I discussed has got to be kicked upstairs, I think is a bad requirement to make.</p>	<p>Michael Gavetti, Support Solutions</p>	<p>Chapter 12, Section 12.9.4</p>	<p>The language has been revised to read as follows, “Review of any personnel practices, including staff recruitment and hiring, staff training, and staff retention and turnover.”</p>

The quarterly review of behavioral services, I don't see a justification for it. If the service is being approved for a year at a time, and monthly reviews are already happening, other than saying, well, it's kind of nice to have additional information. I don't see an additional justified reason for this additional information, this more burdensome report to be brought out. The more time that is spent on these administrative tasks, the less time that I spend on the clinical ones. Okay. So I really think that if we're going to say that there needs to be this quarterly review of behavioral services, there needs	Michael Gavetti, Support Solutions	Chapter 12, Section 12.2.4	Requirements for monthly reviews were scaled back to allow for more assessment in the quarterly reviews. The requirement for an annual update has been removed, resulting in a reduction in work required. Regular reassessment of the function of behavior is required to ensure that the Behavior Analyst's interventions are valid.
to be a lot more information about specifically how that is directly benefiting the person, because information is being shared regularly on a monthly basis, and all of that kind of cohesive is this working stuff. It's touched on in the monthly review. It's completely discussed in the annual review that's usually done just before the ISP service renewal, so that information is get getting where it needs to be in the time it needs to be done. I don't know why it needs to be moved to a quarterly system.	Michael Gavetti, Support Solutions	Chapter 12, Section 12.2.4	Requirements for monthly reviews were scaled back to allow for more assessment in the quarterly reviews. The requirement for an annual update has been removed, resulting in a reduction in work required. Regular reassessment of the function of behavior is required to ensure that the Behavior Analyst's interventions are valid.
The last thing I'm going to say is just a general thing. There is a huge, huge increase in the amount of information that must be reported directly to the central office behavioral system. It's huge. Every restraint, every incident, all these -- how many times certain interventions were used for huge numbers of people. I get it. BAs love data. For BAs, data is crack. I get it. At the same time, unless Dr. Davis has got inappropriate pictures of somebody and can quadruple the size of his staff, I just don't see how this information is going to be regularly reviewed by anybody.	Michael Gavetti, Support Solutions	Chapter 12	Data on treatment failures are required to ensure that we have a system that is providing optimal supports to persons served.

<p>It's going to be coming in in snow shovels, so what I would say, is that I'm kind of okay with on a case-by-case basis having DIDD saying hey, I want this specific information, or I want that specific information. But I just think what's being demanded is going to be so far in excess of DIDD's capacity to process, analyze and evaluate, I think it's just going to get filed. So it becomes burdensome for the provider because we're required to provide it. It becomes burdensome for DIDD because 85 percent of the time they won't even look at it, and the 15 percent of the time they really want it, call me and ask me for it, or say "From now on for this guy we need this information." They've got that mechanism in place with anybody who's had multiple crises, you know, is going to get attention from the regional behavioral staff. Like they've already got a process in place from looking at those more difficult cases. I think that for much of this, those requirements need to be -- to be moved off onto a case-by-case basis rather than a general requirement. Thank you for listening.</p>	<p>Michael Gavetti, Support Solutions</p>	<p>chapter 12</p>	<p>Data on treatment failures are required to ensure that we have a system <b>that</b> is providing optimal supports to persons served.</p>
<p>I know a lot of effort went into this. I did just want to touch on one other chapter, chapter 12. The only thing that I want to say about that is that in the form that we received it with this draft, chapter 12 needs to be significantly altered. It needs to be rewritten and many areas clarified. know that the primary author of that section, Dr. Davis, is interested in simplifying it. He wanted it to be understood, and he wants it to be a chapter that we can all use to support people better, so I'm optimistic that that can be done. Other than that I appreciate the efforts, and I think there's still a lot of work to be done.</p>	<p>Donald Redden, Developmental Services of Dickson</p>	<p>Chapter 12</p>	<p>Your comment is noted. The chapter has been revised.</p>

I share -- I do share the comments Mr. Redden made about the behavior support -- or behavior services chapter. It is very difficult to understand. It might be, make more sense to divide it into two chapters, a chapter that describes what is -- the technicalities of the behavior support plan and what is required for behavior analysts, and then a chapter that has -- it talks more about the responsibilities of the day or residential provider in terms of behavior programs. I think that might make it a lot easier to follow.	Betty McNeely, Journeys in Community Living	Chapter 12, Section 12.7	Your comment has been noted. The chapter has been revised to include a section entitled "Residential, Day, and Personal Assistance Agency Responsibilities in Behavioral Health Interventions."
Very worried about the added requirement that agencies sign up for crisis intervention systems. These are incredibly expensive, and in most cases consists of packaging common sense techniques to help in terms of aggressive behavior, packaging them in such a way that the provider incurs a great deal of expense in order to get that training. I think the regional office with their -- because I do have behavior analysts and specialists available to them. They could provide that kind of training to providers if they needed, and we would not have to incur that added expense. I agree with the comments about safety delay. It's interesting that we should have to get permission to do something that if we did not do it, we would probably be substantiated for neglect.	Betty McNeely, Journeys in Community Living	Chapter 12 Section 12.7.1	Due to the fiscal impact, the Department decided to eliminate the requirement for training in an approved crisis intervention system. However, provider agencies are required to have a policy regarding crisis intervention and to ensure DSPs receive training in crisis intervention. In addition, DSPs who support people whose behavior meets the following criteria are required to have training in crisis intervention: Requiring physical intervention (e.g., manual restraint) within the past two years; or Causing injuries requiring medical treatment within the past two years. The Department is considering developing a training in crisis intervention that will be offered to providers in the future.

<p>If a person is being physically aggressive or exhibiting very inappropriate behavior, we should not have to ask permission not to take them into the community, nor should we have to ask permission to remove them to their home, unless we're talking in terms of possibly some kind of physical restraint issues. Thank you.</p>	<p>Betty McNeely, Journeys in Community Living</p>	<p>Chapter 12, Section 12.5.a.4</p>	<p>The chapter has been revised. Safety Delay has been re-categorized as a behavior safety intervention and not a specialized behavior safety intervention. Safety Delay is implemented when there is an imminent risk of harm which allows for some flexibility before an aggressive or self injurious behavior occurs.</p>
<p>I'm Dina Hajimihalis. I'm the clinical director for West Tennessee Family Solutions and a behavior analyst. I just have two brief comments. In chapter 12.4, number 5, CSQRs are completed -- are required to be completed after every third month of service. If the CSQR is replacing the annual update, instead of doing one annual update, we're now going to be required to do four. This increases the work load on BAs and is also an unfunded service. It would be helpful to have an understanding of this change and how the CSQR would be used. For example, will it be used to justify ongoing services which are currently approved for one year and, if so, who reviews that and makes the decision?</p>	<p>Dina Hajimihalis, West Tennessee Family Solutions</p>	<p>Chapter 12, Section 12.2.4</p>	<p>Requirements for monthly reviews were scaled back to allow for more assessment in the quarterly reviews. The requirement for an annual update has been removed, resulting in a reduction in work required. Regular reassessment of the function of behavior is required to ensure that the Behavior Analyst's interventions are valid.</p>
<p>It would also be helpful to have DIDD consider why the BSP is the only clinical service plan attached to an ISP. That is one thing that we have never had an explanation of and never understood. We're required to update a BSP annually with a new implementation date, do new training. Our plan is required to be attached; however, no other therapy is required to update their plans annually or do retraining annually. That's it. Thank you.</p>	<p>Dina Hajimihalis, West Tennessee Family Solutions</p>	<p>Chapter 12</p>	<p>The Department is considering removing the BSP from the ISP. However, it is important that the BSP and other plans of care are updated regularly to ensure the person supported is receiving appropriate care. Other therapy providers are required to update therapy plans of care annually (if services are to continue into a new ISP year) and to train DSPs as needed when staff instructions change.</p>

Chapter 12 – Behavior Services. This chapter is very hard to understand. Suggest that it be organized and simplified.	Nancy Thiessen, Comcare, Inc.	Chapter 12	The chapter has been revised and reorganized.
We applaud the Department’s enhanced protection of persons served by prohibiting prone and supine restraints and the level of detailed parameters provided in Behavior Services 12.5.e. These prohibitions and parameters are worthy of replication by other Tennessee Departments, including the Tennessee Department of Education with regard to students receiving special education services.Please consider sharing this section of the draft manual. DLAC is pleased to see that DIDD is continuing its commitment to ensuring individuals with intellectual and developmental disabilities are protected from harm ad provided opportunity to make their own choices, direct their own lives and live successfully in the community. As always, we are available at your convenience to continue our ongoing discussions.	Lisa Primm, Disability Law & Advocacy Center	Chapter 12, Section 12.5.e.	Thank you for your comment.

<p>Regarding Behavior Respite: The model as it is proposed is cost-prohibitive. It requires a huge time commitment from a trained clinical staff person, and the erratic ebb-and-flow of the respite census means that it would be difficult for a clinical person to sustain a sizable caseload of additional work that could be used to offset expense (i.e. it is possible for the respite to go from 0 to 8 individuals in a single day, and the clinician must complete an initial plan within 3 days of admission). In addition to the cost of an additional clinical consultant, there would be a huge additional cost in training (i.e. because of the high turnover in the facility, under this model all respite staff would need to be individually trained on 100+ behavioral plans in a year). There would also be additional costs related to the individuals treatment plans (i.e. reinforcers, behavioral sticker-chart materials, picture cards, etc.) that would have to be absorbed by the provider as well. Given these requirements, it is unclear how any provider could meet the service requirements in a cost-effective manner.</p> <p>Regarding Behavior Respite: It is unclear if the changes suggested in the provider manual draft are in line with the service as it is defined in the waiver. The model outlined in the provider manual draft has a strong emphasis on treatment (i.e. with the goal of creating change), while the waiver name for the service (“respite”) suggests the primary goal is a return to baseline stability. If the model is revised to the point that it no longer matches the waiver definition, it is unclear if waiver funds could be used to pay for the service.</p>	Michael Gavetti, Support Solutions	Chapter 12, Section 12.8.5-6	<p>The provider manual has been revised to read as follows: Behavioral Respite Services shall mean short-term behavior-oriented services for a person supported who is experiencing a behavioral crisis that requires removal from the current residential setting in order to resolve the behavioral crisis.</p> <p>2. Upon admission to a behavioral respite site, the respite provider shall be provided with or obtain all current physician’s orders, medications, and as applicable, the person’s dining plan or mealtime instructions and mealtime adaptive equipment.</p> <p>3. In addition, if not provided at the time of admission to the respite site, the following items will be provided to the respite facility, as applicable:</p> <ul style="list-style-type: none"><li>a. Individual Support Plan; and</li><li>b. Behavior Support Plan; and</li><li>c. Cross-Systems Crisis Plan; and</li><li>d. List of appointments that are scheduled for the person.</li></ul> <p>4. Each respite facility shall have a standard data collection system that allows for the recording of behavioral incidents and the person’s response to intervention.</p> <p>5. For each person entering Behavioral Respite Services, the agency shall ensure that a clinician (e.g., psychiatrist, psychologist, behavior analyst, behavior specialist, nurse, social worker) is assigned to oversee the supports provided at the respite facility.</p>
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			<p>5. (continued) The clinician shall do the following:</p> <ul style="list-style-type: none"><li>a. Conduct weekly visits to review the clinical record and observe each person supported; and</li><li>b. Complete a weekly progress note that includes the following:<ul style="list-style-type: none"><li>i. A description of the person’s response to supports provided during the respite stay; and</li><li>ii. Description and analysis of behavioral data pertaining to the person supported; and</li><li>iii. An analysis of factors that may have had an impact on the person’s response; and</li><li>iv. Identification of any action steps that may need to be taken to address clinical concerns; and</li><li>v. Individualized treatment instructions for the staff to follow.</li></ul></li></ul> <p>6. A clinician shall also complete a discharge summary for the respite stay. The report shall include a summary of data, summary of interventions used during the stay, and recommendations for improving the quality of life and clinical treatment for the person supported. The report shall also include recommendations for preventing recurrence of behavior that led to the respite stay and shall be provided to the receiving provider at the time of discharge.</p> <p>7. If needed, the person’s BA shall provide training to the agency designee regarding changes to the BSP and/or ISP, following discharge from the respite stay.</p> <p>8. The person’s COS shall review the recommendations from the respite facility and as appropriate, the COS members shall work with the person’s ISC to make any necessary adjustments to the person’s ISP as well as work.</p>
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Regarding Behavior Respite: The changes appear to be unilateral. That is, no attempt was made to discuss the possible changes with providers who are currently providing the service. No effort has been made to pilot the changes suggested in the manual, or to determine how they might impact services on a day-to-day level. Because the provider manual information is binding as an agreement for the way services must be delivered (both to the provider and DIDD), it seems problematic to introduce a new model without any sort of additional discussion and revision. It is possible that DIDD will end up with a service that does not meet its priorities, goals, or needs. There is no data to suggest that the previous model of service delivery was ineffective, insufficient, or lacking in some way. All of the customer service data that SSTN has suggests that the current respite model of service delivery satisfies the needs of the individuals in the DIDD system. SSTN is unaware of any desire for a change in the service, either by the COS's we have spoken to or the individuals who have actually received the service.	Michael Gavetti, Support Solutions	Chapter 12, Section 12.8.5-6	<p>The proposed Behavior Respite model was based on the START model that is supported by empirical evidence. This provider manual has been revised to read as follows: 5. For each person entering Behavioral Respite Services, the agency shall ensure that a clinician (e.g., psychiatrist, psychologist, behavior analyst, behavior specialist, nurse, social worker) is assigned to oversee the supports provided at the respite facility. The clinician shall do the following:</p> <ul style="list-style-type: none"><li>a. Conduct weekly visits to review the clinical record and observe each person supported; and</li><li>b. Complete a weekly progress note that includes the following:<ul style="list-style-type: none"><li>i. A description of the person's response to supports provided during the respite stay; and</li><li>ii. Description and analysis of behavioral data pertaining to the person supported; and</li><li>iii. An analysis of factors that may have had an impact on the person's response; and</li><li>iv. Identification of any action steps that may need to be taken to address clinical concerns; and</li><li>v. Individualized treatment instructions for the staff to follow.</li></ul></li></ul> <p>6. A clinician shall also complete a discharge summary for the respite stay. The report shall include a summary of data, summary of interventions used during the stay, and recommendations for improving the quality of life and clinical treatment for the person supported. The report shall also include recommendations for preventing recurrence of behavior that led to the respite stay and shall be provided to the receiving provider at the time of discharge.</p>
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Regarding Behavioral Respite: It is unclear if the additional service requirements will lead to any improved outcomes. It is unclear if any behavioral clinician could correctly establish the function of any problematic behavior with only three days of data to review, especially if the individual does not exhibit any of those behaviors while at the respite. Based on past census data, individuals receive respite services for an average of 10 days. Both of the other behavioral models currently funded by DIDD (regular BA services and the IBRS system) include a timeline of assessment, plan development, and plan review that runs for months at a time. Even if a plan was based on the correct function of the behavior, it would be impossible to determine if the behavioral plan developed at the respite was effective in that amount of time, let alone superior to the plan developed in the individual's home environment. Even if the plan was effective, given the different environment and resources at the respite (i.e. increased staffing levels, stable and highly trained staff members, fenced back yard, unfamiliar neighborhood discouraging elopement, on-site psychiatry services, etc.) it is unclear if the newly developed plan could be effectively generalized to the home environment.	Michael Gavetti, Support Solutions	Chapter 12, Section 12.8.5-6	<p>The proposed Behavior Respite model was based on the START model that is supported by empirical evidence. This section has been revised to read as follows:</p> <p>5. For each person entering Behavioral Respite Services, the agency shall ensure that a clinician (e.g., psychiatrist, psychologist, behavior analyst, behavior specialist, nurse, social worker) is assigned to oversee the supports provided at the respite facility. The clinician shall do the following:</p> <ul style="list-style-type: none"><li>a. Conduct weekly visits to review the clinical record and observe each person supported; and</li><li>b. Complete a weekly progress note that includes the following:<ul style="list-style-type: none"><li>i. A description of the person's response to supports provided during the respite stay; and</li><li>ii. Description and analysis of behavioral data pertaining to the person supported; and</li><li>iii. An analysis of factors that may have had an impact on the person's response; and</li><li>iv. Identification of any action steps that may need to be taken to address clinical concerns; and</li><li>v. Individualized treatment instructions for the staff to follow.</li></ul></li></ul> <p>6. A clinician shall also complete a discharge summary for the respite stay. The report shall include a summary of data, summary of interventions used during the stay, and recommendations for improving the quality of life and clinical treatment for the person supported. The report shall also include recommendations for preventing recurrence of behavior that led to the respite stay and shall be provided to the receiving provider at the time of discharge.</p>
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Regarding Behavior Respite: It is possible that the treatment model described in the provider manual draft might be an effective addition to the services currently available to individuals in the DIDD system. However, until the data exists to show a superior performance, it may be best to include this service as an additional option, and not as a replacement for the current respite system.	Michael Gavetti, Support Solutions	Chapter 12, Section 12.8.5-6	<p>The proposed Behavior Respite model was based on the START model that is supported by empirical evidence. This provider manual has been revised to read as follows: Behavioral Respite Services shall mean short-term behavior-oriented services for a person supported who is experiencing a behavioral crisis that requires removal from the current residential setting in order to resolve the behavioral crisis.</p> <p>2. Upon admission to a behavioral respite site, the respite provider shall be provided with or obtain all current physician’s orders, medications, and as applicable, the person’s dining plan or mealtime instructions and mealtime adaptive equipment.</p> <p>3. In addition, if not provided at the time of admission to the respite site, the following items will be provided to the respite facility, as applicable:</p> <ul style="list-style-type: none"><li>a. Individual Support Plan; and</li><li>b. Behavior Support Plan; and</li><li>c. Cross-Systems Crisis Plan; and</li><li>d. List of appointments that are scheduled for the person.</li></ul> <p>4. Each respite facility shall have a standard data collection system that allows for the recording of behavioral incidents and the person’s response to intervention.</p> <p>5. For each person entering Behavioral Respite Services, the agency shall ensure that a clinician (e.g., psychiatrist, psychologist, behavior analyst, behavior specialist, nurse, social worker) is assigned to oversee the supports provided at the respite facility. The clinician shall do the following:</p>
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The definition of a behavioral health crisis needs some revision. Under this definition, anyone who has participated in even a single mild event that resulted in response blocking over the past two years would be included in the “at risk for behavioral health crisis“ category of needing comparatively specialized and intensive additional intervention. This is likely to flood the system with a large number of people, many of whom won’t need this level of intervention. Straining resources in this way limits the system’s ability to intervene on the comparatively smaller number of cases that need this level of attention. Some possible revisions could include reducing the time period to a year or six months, or else to removing response blocking as a criteria that would put a person into the high-risk category.	Michael Gavetti, Support Solutions	Chapter 12, Section 12.5.1	Response blocking has been moved to unrestricted interventions.
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<p>It is unclear if the cross systems crisis plan will be required for anyone having a problem in the past two years, or if that would only be required for individuals with three or more applications of the behavioral safety procedures. It should be clarified to indicate only the more severe group need the cross systems crisis plan. Again, it may be useful to revise the definition so that response blocking is not listed as a behavioral safety procedure (see above).</p>	<p>Michael Gavetti, Support Solutions</p>	<p>Chapter 12, Section 12.7.2.c</p>	<p>The provider manual has been revised to read as follows: Cross-systems crisis plans are used to provide guidance for seeking and obtaining assistance from others in an emergency situation. Persons at-risk for crisis shall have an individualized cross-systems crisis plan developed by the residential provider personnel and other COS members or professionals as appropriate. If the person supported is not receiving residential services then the primary provider is responsible for development of the cross-systems crisis plan.</p> <p>a. Persons served who have had a behavioral health crisis involving an outside entity (e.g., police, mobile crisis, behavioral respite, crisis stabilization unit, psychiatric hospital) within the past two (2) years are identified as at-risk for crisis.</p> <p>b. When a person at-risk for crisis is receiving behavioral services, provider agencies shall consult with behavior analysts in the development of the crisis plan to ensure that it is as consistent as possible with the person’s behavioral treatment. The behavior analyst is responsible for the interactional components of crisis intervention and the provider agency is responsible for the systemic components of crisis intervention.</p> <p>Response blocking is not classified as an Unrestricted Intervention instead of a Behavior Safety Intervention. The lists of intervention types are published on the DIDD web site, Health Services page, under Behavior Services.</p>
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<p>The cross-system crisis plan has significant potential usefulness. However, the detailed and comprehensive nature of the plan makes it very difficult for providers to create independently. In addition, the complexity of the plan makes it difficult for some providers to offer effective training to their staff (i.e. a lack of clinical staff in the management teams of most providers makes it difficult to offer effective routine or ongoing training, especially in homes with high staff turnover). Although implementation of these plans in the IBRS system is comparatively easy (the services of a trained behavioral clinician is a part of the service package), it may be harder for SL or PA services providers. Development and training on cross systems crisis planning is not listed as a billable service under the BA services section, meaning that behavior analysts could not be expected to either create or provide training on the plan (many would refuse to anyway, saying that crisis management is an SL provider responsibility, not the BA). In practical terms, this means that many cross-systems crisis plans will be developed with support from the regional office behavioral staff. Given how pressed these staff are already, it may be useful to be judicious in the requirement for cross systems plans to be developed.</p>	<p>Michael Gavetti, Support Solutions</p>	<p>Chapter 12, Section 12.7.2.c</p>	<p>It is important that providers collaborate to ensure that people who experience behavior health crisis are supported. Residential, Day and PA providers are responsible for developing a crisis intervention policy and for ensuring that DSPs are adequately trained to support people who experience behavior health crisis. The Department does not hold behavior analysts responsible for training residential staff to develop and implement crisis plans. Further, development of the crisis plan is within scope of the behavior analyst's responsibility for assessment and treatment of person's they support. The Department does not believe that crisis plan development should be a separate billable service. The Department does not assume that residential providers do not have the capacity to develop crisis plans as many agencies have clinicians on staff. However, if an agency does not have capacity then the Regional Office Behavior Services staff are available to provide technical assistance to the agency on crisis plans.</p>
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			<p>The provider manual has been revised to read as follows: Cross-systems crisis plans are used to provide guidance for seeking and obtaining assistance from others in an emergency situation. Persons at-risk for crisis shall have an individualized cross-systems crisis plan developed by the residential provider personnel and other COS members or professionals as appropriate. If the person supported is not receiving residential services then the primary provider is responsible for development of the cross-systems crisis plan.</p> <p>a. Persons served who have had a behavioral health crisis involving an outside entity (e.g., police, mobile crisis, behavioral respite, crisis stabilization unit, psychiatric hospital) within the past two (2) years are identified as at-risk for crisis.</p> <p>b. When a person at-risk for crisis is receiving behavioral services, provider agencies shall consult with behavior analysts in the development of the crisis plan to ensure that it is as consistent as possible with the person’s behavioral treatment. The behavior analyst is responsible for the interactional components of crisis intervention and the provider agency is responsible for the systemic components of crisis intervention.</p>
Section 5 should be modified to include the understanding that manual restraint should be permitted in an agency crisis management plan for individuals who have not had recent behavioral problems. All staff are trained to prevent imminent harm situations if they emerge (i.e. running into traffic). Not including this exemption would put staff in a position of either letting the person move towards harm or being in explicit violation of the provider manual.	Michael Gavetti, Support Solutions	Chapter 12, Sections 12.5.a.4, #5 and #6	<p>Manual restraint may be used in an emergency situation. We have stated that an agency with a policy regarding behavioral safety procedures that includes an approved crisis intervention system (e.g., PCM, CPI, QBS, etc. ) may do so without state approval. Parameters for the other allowable behavior safety procedures may also be included in this policy if the agency wishes.</p>

Again, the criteria for defining people as high risk for behavioral crisis is potentially too broad for practical usefulness (i.e. any problems in the past two years). It would be much easier to have a more limited definition (perhaps three or more uses of the specialized procedures, etc.) with an additional statement like “or if specially identified by DIDD as being at risk for crisis.” This would allow more flexibility in setting a “priority list” of individuals who need special attention.	Michael Gavetti, Support Solutions	Chapter 12, Section 12.5.a.4: #5 and #6	We have modified the “at-risk for crisis” criterion. Cross-systems crisis plans will be used to manage systemic elements of a crisis. The flexibility of also including individualized responses to the person in crisis is also available.
Response blocking is much less restrictive than the other procedures listed in the section. It should be listed separately and not trigger the same level of scrutiny.	Michael Gavetti, Support Solutions	Chapter 12, Section 12.5.a.4: #5 and #6	Response blocking has been moved to unrestricted interventions.
An intervention that includes the ability of the provider to remove an individual from a particular community setting due to problematic behaviors should be explicitly included and freely accessible for staff to use without prior approval by the state. It may be useful to allow providers to include this intervention for all staff and individuals as a part of the general agency crisis management plan, provided the agency is able to define what circumstances would (and would not) trigger the use of the intervention and exactly how it should be implemented. Permitting individuals to continue to engage in disruptive behaviors in the community increases the risk of harm to the individual and others. More importantly, it can dramatically affect the ability of providers to offer a wide variety of community destinations for CB Day experiences (especially in more rural settings where few options may be locally available). Being barred from community destinations because of disruptive behavior would significantly and negatively impact the lives of our individuals, much more than having a single visit cut short due to a behavioral problem (at which point the individual is probably not enjoying their community access much anyway). If staff are unable to remove the individual, it also greatly increases the likelihood that police will become involved in the situation.	Michael Gavetti, Support Solutions	Chapter 12, Section 12.5.a.4: #5 and #6	Safety Delay is included in the manual for up to two hours. We agree that this is necessary at times.

The term “safety delay” has been used in the DIDD system (and at SSTN) to mean different things over the years. It may be useful to remove this term to avoid confusion. Perhaps “Community interruption” or “Behavior-triggered community disengagement” or “Proactive community removal” or something similar could be used. All of my examples are awkward, but you get the idea.	Michael Gavetti, Support Solutions	Chapter 12, Section 12.5.a.4	Your comment has been noted. Do not concur on changing the term.
Review of “personnel practices” should be removed from the QI requirement. Confidential clinical supervision materials should not be accessed by QI reviewers, and is not necessary for them to do their job. In addition, confidential HR or disciplinary action materials are not appropriate for inclusion here.	Michael Gavetti, Support Solutions	Chapter 12, Section 12.9.4	The language has been revised to read as follows, “Review of any personnel practices, including staff recruitment and hiring, staff training, and staff retention and turnover.”
I understand the need for summarizing frequency & duration for use of restricted interventions after treatment begins but not sure it should be required as part of the initial assessment. The data most likely doesn’t exist...Clinician shouldn’t be penalized for this.	Martha Felker	Behavior Services Work Product Review. Administrative Section Number 1.3.	The Work Product Review reads as follows: Frequency and duration (as applicable) for all uses of restricted, specialized individualized, behavioral safety and specialized behavioral safety interventions. The Department does not expect providers to report on data that does not exist.
This seems over the top...Indicators 1, 2 & 4 would be more than sufficient	Martha Felker	Behavior Services Work Product Review. Clinical Section – Assessment – Number 7	Your comment has been noted. Do not concur.
This one seems really subjective...What seems inaccurate and unclear to one reviewer may seem accurate and perfectly clear to another	Martha Felker	Behavior Services Work Product Review. Clinical Section – Assessment – Number 9	Your comment has been noted. It is not clear to what you are referring in your comment therefore we are unable to provide a response.

This seems over the top as well...According to our own literature, not every replacement behavior recommended must be functionally equivalent to problem behavior. You may elect to identify 'following directions' as a replacement behavior for task refusal in addition to an RB that is functionally equivalent to task refusal (request or negotiate a brief break). I see it regularly in our journals...	Martha Felker	Behavior Services Work Product Review. Clinical Section – 2.1.7	There is a mechanism in the Work Product Review to use a replacement behavior that is not functionally equivalent. The clinician must provide justification for the use of a replacement behavior of that type.
Should this item apply only to restricted procedures?	Camille Pedone	Behavior Services Work Product Review. Administrative Section Number 4.	This items should remain "procedures" in general. For instance, even Non Rest. Procedures may have risks: E.g. Extinction: risk of injury as behavior escalates following withdrawal of reinforcement. Also, NCR: may inadvertently reinforce problem behavior.
"confusing terms" and "vague terms" this is not a measurable reviewer behavior... what confuses one person can be clear to another. Thus very murky IOA I would take it out	Camille Pedone	Behavior Services Work Product Review. Clinical Section – 2.1	The Work Product Review now includes the phrase "concrete observable terms" instead of confusing or vague.
Maybe use the words "meaningful trends in data?"	Camille Pedone	Behavior Services Work Product Review. Clinical Section – Follow Up – Number 1	Changed wording to the following: "or are not valid and reliable"
For restrictive procedures we are allotted 60 days; would we submit for planning and development or is that just for the first 30 days then the other is considered treatment as far as it pertains to requesting services?	Jay Zimmerman	None	This has nothing to do with billing, but rather sets an outside limit as to how long the BA can take to get the appropriate approvals and implement the plan. Because of frequent barriers that impede this process, the words "shall" in this statement were changed to "should."

After discharge from behavior supports, what procedural guidelines are in place to insure a COS is implementing appropriate adjustments?	Jay Zimmerman	None	Your comment has been noted. It is not clear to what you are referring in your comment therefore we are unable to provide a response.
For unrestrictive interventions, who will train COS's on what are considered unrestrictive, and how to perform their application? (When in lieu of having a B.A. "on board").	Jay Zimmerman	None	Information is provided in the provider manual (Ch. 12.6) to give a basic description of what unrestrictive and restrictive interventions are and the COS may also reach out to their local regional offices to request assistance. In most cases it is likely that the COS would make the decision to request behavior services. In other cases, technical assistance may be provided by the regional office Behavior Analysts to assist the COS in development of unrestrictive procedures outside of a formal Behavior Support Plan.
If an Individual is attempting to return to a public bathroom with the intention of wiping his hands in urine, reinforcement to leave has failed, and staff manually guide the person from the immediate environment, is this manual restraint? The staff would be using approved techniques (i.e. Sunday Stroll).	Jay Zimmerman	None	This would be a restraint according to the Provider Manual as presently written.
So response blocking can or cannot be in the treatment section of a BSP? Just the crises section?	Jay Zimmerman	None	Response blocking has been moved to the list of unrestricted interventions.
Under Behavioral Contracting, there should be no withdrawal because that would constitute response cost; maybe it should be reworded to "failure to earn the agreed upon reinforcer"	Jay Zimmerman	None	Wording changed to: The failure to earn a reinforcer shall not involve the manipulation of any basic human rights.

Per the plan development code, BSPs must be trained and implemented within the 30 day approval window. If a restrictive BSP is given up to 60 days for implementation, it does not meet the billing criteria and the BA may not get paid for providing the service if BSP implementation did not occur in the 30 days of Plan Development approval.	Dina Hajimihalis	Chapter 12, Section 12.2.2.c	Reimbursement for behavior plan development resulting from such a behavior assessment and the training of staff on the plan during the first 30 days following its approval for use shall be limited to a maximum of 6 hours (24 qtr hour units per year). Plans can not be implemented until approved through the described processes. As described if a portion of the plan is not approved (such as restrictive interventions), that portion is not expected to be implemented until appropriate approvals are received while the unrestricted procedures may be implemented.
If a BA develops behavior guidelines which may remain in effect after discharge and the COS is responsible for managing and revising these guidelines, this means that behavior interventions may be changed by anyone and allows for the COS to make decisions regarding appropriate interventions for problem behaviors. This should be re-evaluated because COS may then revise and include restricted or unethical interventions without the oversight of a BA.	Dina Hajimihalis	Chapter 12, Section 12.2.e	Wording was changed from “behavior guidelines” to “staff instructions”. Also changed “unrestricted” to “informal.”
Why a CSMR during assessment and plan development? It will not contain any relevant information and will only indicate provision of service and not how the service is going.	Dina Hajimihalis	Chapter 12, Section 12.2 .3.b	Requirement removed.
What is the purpose of a CSQR? It is replacing the annual update, but it now seems as if we are going to be required to do 4 annual updates per year instead of 1. The CSQR is not being utilized to determine ongoing services and increases the workload for BA's. It also becomes repetitive when information already included in the CSMR must then be summarized in the CSQR. The CSMR currently allows for the BA to address if the function of the behavior changes under the recommendation section and also should be included in the body of the CSMR in the Clinical interpretation section.	Dina Hajimihalis	Chapter 12, Section 12.2 .3.d	DIDD requires a more formal analysis of the data on a regular basis. The quarterly review is not the equivalent of an annual update. It is essentially the monthly update that was previously required plus a summary of data related to function.

With BSPs currently synching with the ISP for implementation dates, the last CSQR of the ISP year may come 4 months prior to the implementation date of the ISP and BSP. This means that Objectives and Goals will be determined 4 months in advance and can change at any time during that 4 month period based on changes in the data and require the BA to re-evaluate and resubmit new Goals and Objectives closer to the ISP date.	Dina Hajimihalis	Chapter 12, Section 12.2 .3.d	There is no requirement for BSPs to synch with the ISP date.
If discharge is in a month when a CSMR is due, then based on what I have read the discharge note would only include the requirements of the CSMR and date of discharge, reason for discharge and a discharge plan that references if behavior guidelines, crisis plan or recommendations to the ISP are included. Are you assuming that BA's will understand that the reason for discharge should include a clinical interpretation of the graphs and a listing of the Behavior Objectives and Goals ? If this is not spelled out clearly, you may just get a CSMR that includes graphs and the reason for discharge is that all Objectives and Goals were met without a listing of those or discussion of the changes over the last treatment year that led to the discharge of services.	Dina Hajimihalis	Chapter 12, Section 12.2.4	Added a requirement to include a narrative description of the course of treatment.
If a COS can use unrestricted interventions without a BA or BSP, then why would BA services ever be needed for anything other than restricted interventions? This seems to allow for untrained individuals to make decisions regarding behavioral interventions.	Dina Hajimihalis	Chapter 12, Section 12.6	Information is provided in the provider manual (Ch. 12.6) to give a basic description of what unrestrictive and restrictive interventions are and the COS may also reach out to their local regional offices to request assistance. In most cases it is likely that the COS would make the decision to request behavior services. In other cases, technical assistance may be provided by the regional office Behavior Analysts to assist the COS in development of unrestrictive procedures outside of a formal Behavior Support Plan.DIDD wants to encourage the COS to engage in informal problem solving with a focus on person centered practices. Use of unrestricted procedures developed by a fully engaged COS with a focus on outcomes for the person is another way of achieving a positive outcome for the person supported. This description is not mean to discourage the use of BA services, but to provide the COS with tools to support the person.

Why is response blocking now considered a safety procedure and equivalent to other interventions which are more restrictive of a person's movement and freedoms? Most BSPs indicate for people with aggression, property destructions, SIB, etc. that the first step is to implement response blocking to keep the individual from hurting themselves and others. One definition of response blocking is: A procedure in which the therapist physically intervenes as soon as the learner begins to emit a problem behavior to prevent completion of the targeted behavior.	Dina Hajimihalis	Chapter 12, Section 12.6	Response blocking has been moved to the list of “unrestricted interventions” to make the requirements more clear. Response blocking does not constitute a reportable incident. The list of unrestricted interventions is available online, the path is: DIDD home page> Site Map> About Clinical Services > Behavior Services.
Whenever a person engages in these types of behaviors there is always an immediate threat and without intervention, could lead to injury to themselves and/or others. Response blocking does not restrict from movement or freedom and keeps a person and others around them safe. Also, response blocking seems to be less restrictive alternative than all the other procedures listed as safety procedures. In a BSP, in the section currently titled, what to do to decrease target behaviors, what would be the recommended intervention for target behaviors if not response blocking? What procedures would we give staff to address this?	Dina Hajimihalis	Chapter 12, Section 12.6	Response blocking has been moved to the list of “unrestricted interventions” to make the requirements more clear. Response blocking does not constitute a reportable incident. The list of unrestricted interventions is available online, the path is: DIDD home page> Site Map> About Clinical Services > Behavior Services.
Does this also mean that each use of response blocking now must be documented and reported?	Dina Hajimihalis	Chapter 12, Section 12.6	Response blocking has been moved to the list of “unrestricted interventions” to make the requirements more clear. Response blocking does not constitute a reportable incident. The list of unrestricted interventions is available online, the path is: DIDD home page> Site Map> About Clinical Services > Behavior Services.



<p>“Behavior Support Plans or Cross-Systems Crisis Plans that contain Behavioral Safety Procedures and no other Restricted, Special Individualized Procedures or Special Individualized Safety Procedures may be implemented without approval from BSC or HRC.” Based on the list of Behavioral Safety Procedures, Manual Restraint in a BSP is no longer considered restrictive and does not require the behavior plan be approved by BSC and HRC? I see a problem here with manual restraint being used as an immediate intervention of the occurrence of target behaviors and it’s use increasing significantly when the less restrictive alternative would be response blocking. Also, this could also increase an underreporting of its use even though it is required to be reported because now it can be in a Crisis Plan and not a BSP.</p>	<p>Dina Hajimihalis</p>	<p>Chapter 12, Section 12.6</p>	<p>Use of manual restraint must be reported according to Chapter 7 Protection from Harm. The Department has internal mechanisms for monitoring the use of restraint and the regional offices will intervene and possibly require RBSC review when the use reaches identified thresholds . This section no longer addresses the use of response blocking.</p>
<p>If protective equipment may only be used in the crisis section of the BSP and response blocking also may only be used in a crisis, then you would not be able to use them when someone is presenting precursors in order to prevent the person from injuring themselves or others? I see this leading to an increase in injuries to or by individuals who require the use of protective equipment. Also, in the past I had a person who we utilized response blocking with first for aggression and SIB and would only use protective equipment when response blocking was ineffective in stopping the occurrence of the target behavior. Now, both of these procedures now can only be used in a crisis and I can see protective equipment being utilized more frequently than a less restrictive intervention such as response blocking.</p>	<p>Dina Hajimihalis</p>	<p>Chapter 12, Section 12.6.5</p>	<p>Protective equipment is a specialized behavior safety interventions, and is only to be used "...when there is a persistent and ongoing risk of harm to self or others." It is included in the crisis section of a BSP to ensure that BAs are overseeing its use. If precursors are used as a criterion, that is a variance to the policy and requires review by SBSC.</p>

In this section, it indicates that manual/mechanical restraint and protective equipment may only be used when necessary to protect...however, mechanical restraint and protective equipment require a BSC and HRC approved BSPO and manual restraint does not. This seems to indicate that manual restraint is a specialized behavioral safety procedure when it has previously been listed as a behavioral safety procedure. Clarification is necessary here.	Dina Hajimihalis	Chapter 12, Section 12.6.5	Manual restraint is used to manage an immediate crisis and is thus labeled a behavioral safety procedure not further specified allowing it to be used in emergencies. Specialized behavioral safety interventions (e.g. mechanical restraint, protective equipment, and supported recovery – separation) are used to manage ongoing crises, may be less necessary, and are more restrictive in form and duration of use. Therefore, they require a higher level of approval.
If response blocking is a behavioral safety procedure and is used in the crisis section of the BSP, then how does it not constitute a behavioral health crisis? If it is not constituting a crisis, then why can it only be included in the Crisis section of a BSP?	Dina Hajimihalis	Chapter 12, Section 12.6	Response blocking has been moved to the list of “unrestricted interventions” to make the requirements more clear. Response blocking does not constitute a reportable incident. The list of unrestricted interventions is available online, the path is: DIDD home page> Site Map> About Clinical Services > Behavior Services.
If a person has a BSP with crisis procedures, is an agency required to have a Cross Systems crisis plan for the individual as well?	Dina Hajimihalis	Chapter 12, Section 12.7.2	Not necessarily, but possibly. If these crises often involve outside entities such as the police or mobile crisis, then there will have to be planning for the “cross-systems” aspect of the crisis. The requirement for direct intervention in a Cross-Systems Crisis Plan has been converted to an option.
Although we have some individuals, with BSPs, that require the use of PCM, we have not had to call the police, mobile crisis, or had anyone hospitalized – is it necessary for us to have a Crisis Plan for these individuals?	Dina Hajimihalis	None	Based on the information provided in the comment it appears that the plans may be handled within a BSP.

Will there be funding available for BA's who have to develop these or assist agencies in developing these? This again increases the workload of behavior analysts and does not have a funding source attached to it.	Dina Hajimihalis	None	There is no required assistance in the development of a crisis plan. Agencies will receive training in how to complete them. DIDD is having required agencies to collaborate with the BA to ensure consistency.
Just an FYI....most police departments, mobile crisis units and hospitals are not going to look at this information – we currently have some instructions for staff that they should provide to these entities and the majority of the time, these entities are not interested in this information and ignore it when it is presented by the staff or BA. It would be helpful to include a complete sample plan, especially for sections such as the Amber Zone or Red Zone.	Dina Hajimihalis	Chapter 12, Section 12.7.2	Representatives from our department meet with the statewide director of Mobile Crisis on a regular basis and much of the information included is at their request. There is little question that both the DIDD and DMHSA systems have more to learn about managing crises. The format for Cross-Systems Crisis Plans has been removed. Training will be provided to agencies.
For the directory of Key People section, know that you can list a psychiatric hospital but police and mobile crisis will take to any facility they chose and not necessarily the one listed in the Crisis Plan.		None	Possibly, but if it is a plan that Mobile Crisis and agency have agreed to in advance, it increases the likelihood of the most optimal choice. There are certainly factors beyond the plan that may come into play (e.g., hospital doesn't have a bed)
Do all local police departments (here in Memphis you would have Memphis City, Shelby County, Bartlett City and State Police), psychiatric hospitals, etc. need to be included in the crisis plan?	Dina Hajimihalis	Chapter 12, Section 12.7.3	For the purpose of the cross-systems crisis plans it would be expected to incorporate the entities that are most relevant and likely to be utilized..

In the event of psychiatric hospitalizations, staff shall remain with the person served until it is clear that the person is being admitted to the hospital....just an FYI some facilities will not allow the staff to stay with the person but will allow them to remain in the waiting room.	Dina Hajimihalis	Chapter 12, Section 12.7.1	The provider manual has been revised to read as follows: h. General procedures for managing crisis situations involving external entities (e.g., police, mobile crisis, etc.). In the event of psychiatric hospitalization, the Cross-Systems Crisis Plan shall state that agency provider staff must monitor the person’s status and remain close by until it is clear that the person has been admitted to the hospital. Tele-health options may be used to minimize the necessity for extensive travel by staff.
If the crisis section of the BSP specifies use of agency approved crisis intervention when less restrictive interventions fail, does the crisis section need to include specific criteria for use and general release criteria since this is already included in the training of the agency approved crisis intervention procedure?	Dina Hajimihalis	Chapter 12, Section 12.6	If monitoring and release criteria are included in the agency training, it is not necessary to include it in a BSP, unless it is to be individualized.
Also, in the section of the BSP for treating target behaviors, currently if response blocking is ineffective, staff are prompted to use agency approved crisis intervention procedures....my understanding now is that the Crisis section of the BSP will not have specify the specific criteria for it’s use. Is this correct?	Dina Hajimihalis	None	Providers must follow all of the technical requirements for the use of manual restraint. This will include specifying any individual aspects of the criteria for the use of manual restraint.

In the Mechanical restraint Section it states that Mechanical restraints and protective equipment may only be used if included in a Crisis Plan or the Crisis section of a BSP; however, in Chapter 12 it indicates that Mechanical restraint (Specialized Behavioral Safety Procedure) must be approved by statewide BSC and HRC. Does that mean that a Crisis Plan that is approved by Statewide BSC and HRC is sufficient or must mechanical restraint be included in a BSP as well?	Dina Hajimihalis	Chapter 12, Section 12.6	Change made. Mechanical restraint may only be used in a BSP.
If a plan has all non-restrictive interventions, are generalization and fading procedures needed or isn't this implied based on the person meeting the Objectives and Goals of the BSP?	Dina Hajimihalis	Behavioral Services Work Product Review Planning #7	Yes, generalization and fading are still needed because ideally we want the person to become independent of behavioral intervention.
What exactly do you mean by greater independence from staff intervention? Is this due to occurrence of target behaviors or in everyday life. Most individuals in DIDD will always require some staff intervention during their day.		None	The goal of behavior analysis is to continue progressing toward greater independence.
Overall, these changes seem to increase the amount of paperwork required to be completed by the BA and most of this paperwork and the time allotted to complete it we are not reimbursed for. We also seem to have many more requirements than other therapies and our plan is the only plan required to be a part of the ISP. It is a concern that the requirements of others therapies are not equivalent to those required of Behavior Analysts. Although the documentation is equivalent in terms of what is written (plans, notes, etc.) the amount of information required per document is excessive for Behavior Analysts.	Dina Hajimihalis	Behavioral Services Work Product Review	Changes result in a net decrease in provider work required.

With the assess, treat and discharge approach to BA services, can you address a fundable maintenance phase for Analysts in the Provider Manual or some less formal approach options?	Marcus Perez	Chapter 12, Section 12.3.	This provider manual has been revised to include a section titled, "Staff Instructions in a Consultative Behavior Services Model". This model applies when involvement from a BA is needed, however, the needs of the person supported do not arise to the level of a BSP.
Will there be templates/examples available for the BSAR, BSP, CSMR, and CSQR? I have not received any templates/examples for the BSAR, BSP, CSMR, and CSQR. The crisis plan example sent out recently appears to be very technical for a supported living provider to complete and maintain. I think many SL providers will have difficulty completing the crisis plans.	Zach Shoemaker	Chapter 12	These templates will be provided as examples on the DIDD website.
Can the Provider Manual be broken down such that BA providers (in my case, an independent BA) know exactly what chapters, chapter sections/parts of the Manual we need to focus on or be aware of? It appears that throughout various chapters, a BA provider or "all providers" is either mentioned or alluded to an added responsibility. I strive to run a tight ship and do not want to get gigged on my next QA audit for an area/something that I have inadvertently did not complete or have on file. My last QA audit resulted in me obtaining a 4 star status. It seems there are quite a bit of changes and vague parts throughout the Provider Manual.	Zach Shoemaker	Chapter 12	We understand the concern. But, it is not feasible to break the provider manual down to put all BA provider requirements in one chapter.
Who develops the cross-system crisis plans? The manual states the agency's would develop it. Is the cross-system crisis plan a separate document than the BSP crisis section that will now be expanded? Will the BA provider need to possess a copy of the cross-system crisis plan for their QA audit? Or is the BSP crisis section sufficient?	Zach Shoemaker	Chapter 12, Section 12.7.2	Provider agencies are to collaborate with BAs in development of the crisis plan. The responsibility for crisis intervention has been reorganized so that BAs are responsible for the interactional components of crisis intervention and provider agencies are responsible for systemic components of crisis intervention.

The manual states “all agencies are required to adapt and provide training for an approved method of personal safety and crisis techniques”. Does this mean BA providers must also be trained in every technique?	Zach Shoemaker	Chapter 12, Section 12.7.1	Due to the fiscal impact, the Department decided to eliminate the requirement for training in an approved crisis intervention system. However, provider agencies are required to have a policy regarding crisis intervention and to ensure DSPs receive training in crisis intervention. In addition, DSPs who support people whose behavior meets the following criteria are required to have training in crisis intervention: Requiring physical intervention (e.g., manual restraint) within the past two years; or Causing injuries requiring medical treatment within the past two years. The Department is considering developing a training in crisis intervention that will be offered to providers in the future.
Behavioral contracting definition vs. time-out from positive reinforcement definition? It seems that the time-out from positive reinforcement is worded to be partly restrictive when forms of positive reinforcement happens to a basic human right. Can the manual be more clear on using behavior contracting. In the past, the WTRO BA stated that I needed to stray away from using a behavior contract because the act of reinforcing a client with a tangible item causes problems of the client looking at the BA as a “special person” and more favorable than staff.	Zach Shoemaker	Chapter 12, Section 12.6.1	Behavior Contracting is an Unrestricted Intervention. The definition of behavioral contracting was changed to the following: Behavioral Contracting: a written agreement which a person supported agrees to engage in a specified level of a target behavior or behaviors and another party agrees to provide reinforcement when the criterion is met. The contract states that the reinforcement will be administered contingent upon the occurrence (or nonoccurrence) of the behavior. The failure to earn a reinforcer shall not involve the manipulation of any basic human rights.
The manual says “BA’s sometimes use protective equipment in a plan for the purpose of extinction procedures. Such use shall be outlined in the ‘what I do to decrease behavior’ section of a BSP” but in the manual 12.3, the manual does not include a section titled “what I do to decrease behavior”.	Zach Shoemaker	Chapter 12, Section 12.3	This statement has been removed from the manual.

The manual says “the respite provider shall obtain all appropriate records...including the BSP”. Does this mean respite homes will now have to follow a clients BSP rather than a “catch-all” BSP? Will staff at respite homes have to be trained in the crisis techniques that is/was originally set up for the client during their stay at respite?	Zach Shoemaker	Chapter 12, Section 12.8.	<p>The respite facility will be responsible for the person’s care during the respite stay. The provider manual has been revised to read as follows: Behavioral Respite Services shall mean short-term behavior-oriented services for a person supported who is experiencing a behavioral crisis that requires removal from the current residential setting in order to resolve the behavioral crisis.</p> <p>2. Upon admission to a behavioral respite site, the respite provider shall be provided with or obtain all current physician’s orders, medications, and as applicable, the person’s dining plan or mealtime instructions and mealtime adaptive equipment.</p> <p>3. In addition, if not provided at the time of admission to the respite site, the following items will be provided to the respite facility, as applicable:</p> <p>a. Individual Support Plan; and b. Behavior Support Plan; and c. Cross-Systems Crisis Plan; and d. List of appointments that are scheduled for the person.</p> <p>4. Each respite facility shall have a standard data collection system that allows for the recording of behavioral incidents and the person’s response to intervention.</p> <p>5. For each person entering Behavioral Respite Services, the agency shall ensure that a clinician (e.g., psychiatrist, psychologist, behavior analyst, behavior specialist, nurse, social worker) is assigned to oversee the supports provided at the respite facility. The clinician shall do the following:</p> <p>a. Conduct weekly visits to review the clinical record and observe each person supported; and b. Complete a weekly progress note that includes the following:</p>
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			<p>5. (continued)</p> <p>i. A description of the person’s response to supports provided during the respite stay; and ii. Description and analysis of behavioral data pertaining to the person supported; and iii. An analysis of factors that may have had an impact on the person’s response; and iv. Identification of any action steps that may need to be taken to address clinical concerns; and v. Individualized treatment instructions for the staff to follow.</p> <p>6. A clinician shall also complete a discharge summary for the respite stay. The report shall include a summary of data, summary of interventions used during the stay, and recommendations for improving the quality of life and clinical treatment for the person supported. The report shall also include recommendations for preventing recurrence of behavior that led to the respite stay and shall be provided to the receiving provider at the time of discharge.</p> <p>7. If needed, the person’s BA shall provide training to the agency designee regarding changes to the BSP and/or ISP, following discharge from the respite stay.</p> <p>8. The person’s COS shall review the recommendations from the respite facility and as appropriate, the COS members shall work with the person’s ISC to make any necessary adjustments to the person’s ISP as well as work</p>
<p>The manual states a BA must obtain a staff signature on all contact notes or sign in and out in the visitor log. Would a signature be required for planning development? I have 99.9% of all my notes signed by the staff working on shift, but when I am developing a BSAR or BSP at home, there is no staff to sign the note.</p>	<p>Zach Shoemaker</p>	<p>None</p>	<p>No signature is required for Behavior Services: Assessment of Behavior Services: Planning.</p>

Overall – We recently received a new draft of this chapter, which is greatly improved over the one presented for the Public Hearing. Additionally, there are two new plans required of providers which may or may not be good ideas, but there has been no discussion of what they mean other than this written directive. We need to talk more about this with the author.	TNCO	Chapter 12	Due to the fiscal impact, the Department decided to eliminate the requirement for training in an approved crisis intervention system. However, provider agencies are required to have a policy regarding crisis intervention and to ensure DSPs receive training in crisis intervention. In addition, DSPs who support people whose behavior meets the following criteria are required to have training in crisis intervention: Requiring physical intervention (e.g., manual restraint) within the past two years; or Causing injuries requiring medical treatment within the past two years. The Department is considering developing a training in crisis intervention that will be offered to providers in the future and is open to provider input.
12.3: the BSP has become an esoteric document which will prove to be unusable by anyone other than those who write it. This section should be rewritten utilizing the KIS principle.	TNCO	Chapter 12	Your comment has been noted.
Clinical Services Reviews for Behavior Services: there are no feedback mechanisms for providers in the review process. Although provider staff are expected to carry out all of the steps of the BSP, there is nothing coming back from the behavior analyst. This feedback loop is critical. Minimally the quarterly review should be sent to the provider agency(s). Currently many behavior analysts are submitting reviews to providers. By intentionally omitting this step, that practice may change. Clinical services monthly review should be sent to primary provider in addition to ISC.	TNCO	Chapter 12, Section 12.2.4	All clinical services reviews will be submitted to the ISC/CM and primary provider.

12.5 Behavior Health Crisis: (5) "Crisis intervention systems" are incredibly expensive and in most cases consist of packaging and marketing common sense techniques (at exorbitant rates) for preventing and managing aggressive behavior. DIDD should provide this training through the behavior staff in the regional offices or pay for agencies to receive the commercial training.	TNCO	Chapter 12, Section 12.7.1	Due to the fiscal impact, the Department decided to eliminate the requirement for training in an approved crisis intervention system. However, provider agencies are required to have a policy regarding crisis intervention and to ensure DSPs receive training in crisis intervention. In addition, DSPs who support people whose behavior meets the following criteria are required to have training in crisis intervention: Requiring physical intervention (e.g., manual restraint) within the past two years; or Causing injuries requiring medical treatment within the past two years. The Department is considering developing a training in crisis intervention that will be offered to providers in the future and is open to provider input.
(6) Cross-Systems Crisis Plan: Thank you for rewriting this section, but it is still unclear why this plan is needed and exactly what it is. If a person has a BSP this should be developed by the BA. The fact that BAs are not qualified (or don't see themselves as qualified) in dealing with mental health issues seriously limits their usefulness in the real world with real people. Big impact for those serving individuals with different day and residential providers-impact for training-unclear as to the process?	TNCO	Chapter 12, Section 12.7	Cross-systems crisis plans are used to provide guidance for seeking and obtaining assistance from others in an emergency situation. Provider agencies are to collaborate with BAs in development of the crisis plan. The responsibility for crisis intervention has been reorganized so that BAs are responsible for the interactional components of crisis intervention and provider agencies are responsible for systemic components of crisis intervention.
12.5.a.1 Unrestricted Behavioral Interventions Procedures: we appreciate the rewrite of this section. DIDD needs to reinstitute the use of behavior specialists so that agencies can have the necessary internal resources and feel empowered to manage negative behaviors easily and sensibly.	TNCO	Chapter 12, Section 12.6.1	Your comment has been noted.
12.5.a.4.a Safety Delay: thank you for rewriting this section. Further discussion is needed.	TNCO	Chapter 12, Section 12.6.4	Thank you for your comment.
12.4.2 Clinical Services Reviews for Behavior Services: Clinical services monthly review-should be sent to primary provider in addition to ISC.	TNCO	Chapter 12, Section 12.2.4.b	Concur. The chapter has been revised.

Comment	Source	Policy/Rule/TCA Reference	DIDD Response
I'm Paul Sanguinetti. I do most of the documentation support for special needs and also nutritional therapy services. My comments primarily pertain to chapter 13, therapy and therapy-related services. One of the things we have run into recently in the requirement for background checks, one of the things that it states in chapter five is that you have to have a fingerprint sent in to TBI to get the thing done. In our experience they've never asked for a fingerprint. We just send them the form with the required contact information. They do the checks and send us back a denial or an approval, and having a requirement for a fingerprint, first of all, I wouldn't know how to do one. I wouldn't know where to get one, and I wouldn't know where to send it. So I really don't understand why that would be required, particularly since most of the therapies are done, not as part of direct support, but in the presence of other providers that would also be supposedly familiar with these people and have their interests in mind. One of the things that we've run into -- and I've been doing this for 14 years so this is nothing new to me.	Paul Sanguinetti, Special Needs	Chapter 13	Your comment has been noted. Please reference chapter 5, section 5.2.c.4. The Department does not require fingerprint samples.
The other thing is just kind of a general efficiency standpoint. I know doctors don't like to be sent paperwork to deal with, and every time we have to send out a plan of care to be approved, typically it takes me two to three times through the process to get a signature back. A lot of times it comes in late, and that's not only disruptive to us, but it's also disruptive to the ISC that's trying to submit for services, to the doctor who has to look through his paperwork and coordinate all these activities. One of the things that we considered is since we need to send proposed plans to the ISCs within 90 days prior to the ISP date, that it would make a lot more sense for all of the therapists to send their plans of care into the ISC, have them discussed at the annual meeting, and have the primary provider then take those plans in bulk, get the doctor's approvals, send us a copy of the signed plan for our records, and cut down on the amount of paperwork that the doctor has to deal with.	Paul Sanguinetti, Special Needs	Chapter 13	Your comment has been noted. The expectation is that once Titan is fully implemented, service planning and authorization will be more efficient.

And most these people get the -- have an annual physical within the time frame between the day 90 and the time that paperwork needs to be submitted for services. It would be a lot less hassle all around for everybody, and we would know that it's being taken care of in bulk.	Paul Sanguinetti, Special Needs	Chapter 13	Your comment has been noted. The expectation is that once Titan is fully implemented, service planning and authorization will be more efficient.
The final issue regards the initial assessment. One of the things that we've kind of always reviewed is that for us to provide a justification and get it signed by the doctor and send it in, is kind of self -- what would you call it? Self-servicing. It makes a whole lot more sense if a person needs services, that a doctor's order be submitted either by the primary provider or the ISC, and in some cases we're getting this. And in many cases, at least according to the PT Practice Act, a doctor's order isn't even needed for the initial assessment, so we're kind of doing things beyond what the Department of Health and the Therapy Practice Act require for no real purpose other than to have the doctor sign his approval on something that then gets sent on for further communication. I think that was about all I had.	Paul Sanguinetti, Special Needs	Chapter 13	Your comment has been noted. Physician order's for assessments are required by the waiver. There is not a restriction on who can obtain the physician order.
Once again I'm Paul Sanguinetti with Special Needs, and my comments now are mainly informational, I guess. Every year we have to bail out these Title VI forms and identify how many blacks and whites and Hispanics we have. There's really no way for us to know that from my sitting in my office. I work out of the house. There's nothing on the ISP that shows what race these people are. Doesn't even tell me what gender they are. I don't know how many times I've thought that Jackie was a guy. So I guess if there's information that's important for us to communicate back to the state, they need to give us a place to show us where that is. Now, the only place I've been able to find the race of a person is a letter code on the first page of the cost plan. To try and wade through this kind of stuff instead of having it all in one place such as the ISP is kind of cumbersome for us.	Paul Sanguinetti, Special Needs	None	Your comment has been noted. The expectation is that once Titan is fully implemented, the Title VI reporting process will be more efficient.

<p>The other thing is: There's a whole lot of information that the state is asking us to provide that they already know. A simple query report would tell them how many of my people are Hispanic or black or white. To me they're all green so we really don't keep track of that kind of thing because it's not important to us. It's important to somebody sitting in an office to get a count, but they already know. All they have to do is run a report in their own systems, and they'll be able to identify a lot more information than we would be able to provide them. So I think the state needs to look at why they're requiring us, as providers, individually throughout the state, hundreds and hundreds of agencies, to provide information that a simple report in their own systems will tell them.</p>	<p>Paul Sanguinetti, Special Needs</p>	<p>None</p>	<p>Your comment has been noted. The expectation is that once Titan is fully implemented, the Title VI reporting process will be more efficient.</p>
<p>The monthly progress notes that we put together every month, we are required to send them to both the ISCs and the primary providers. Every month they get frantic calls from primary providers saying I need you to send me a year's worth of monthly notes for so and so and so and so because we're coming up for review. So that tells me that the primary providers don't use these documents. They don't want them. They don't know what to do with them, and the only reason that they are requiring them from us is because QA is asking for them. We need to do away with cumbersome paperwork that is not providing any service to the individual and is just providing busy work and something for QA to keep track of because, as you probably know, we haven't really had what I would consider any kind of a raise in the last 15 years. We're required to do more and more off the clock, and we're required to provide more and more burdensome paperwork that is not contributing</p>	<p>Paul Sanguinetti, Special Needs</p>	<p>None</p>	<p>Your comment has been noted. The expectation is that once Titan is fully implemented, the process for maintaining records will be more efficient.</p>
<p>anything to the support of the people. One of the things -- since ISC is required to have these documents, it would seem to be that that would be a common focal point, that if somebody wants information about an individual, the ISC should be a contact. have them come to the individual therapists and request things again is a burdensome endeavor and could be kind of counterproductive because we're going to give them one side where the ICS can give them the whole picture.</p>	<p>Paul Sanguinetti, Special Needs</p>	<p>None</p>	<p>Your comment has been noted. The expectation is that once Titan is fully implemented, the process for maintaining records will be more efficient.</p>

13.2.b.3.. “Services cannot be authorized at the same time as an assessment”. Does this mean in the same hour, same day, same week, or same month? One cannot tell from the context. Perhaps it should state the assessment should be completed and presented to DIDD prior to authorization.	Philip Garner, Buffalo River Services, Inc.	Chapter 13, Section 13.2.b.3	The language has been clarified to read as follows: "2. An assessment must be completed prior to the authorization provision of services, in order to establish/justify a need for a particular service. " #3 "Services cannot be authorized at the same time as an assessment", has been deleted.
13.7. Self Assessment and Internal QA. This is talking about how Providers do Internal QA. It is speaking specifically about therapies. Who in the agency is qualified to assess the therapeutic treatments? Seems only another therapist or likewise qualified person can do this. Will the provider QA employee be sufficient?	Philip Garner, Buffalo River Services, Inc.	Chapter 13, Section 13.7	It is the provider's responsibility to ensure the appropriate person is involved in the self-assessment and Internal QA process for therapy services. The Department is not mandating that any particular employee be involved in fulfilling this requirement.
13.10.a. Interesting note that Assess and Treat orders are not allowed. The must be ordered separately by the physician. It seems that this should not be an issue if the doctor orders and should be allowed.	Philip Garner, Buffalo River Services, Inc.	Chapter 13, Section 13.10.a.	This is a waiver requirement.
13.10.e. second to last paragraph: Mentions “staff instructions” again. Recommended “staff guidelines”.	Philip Garner, Buffalo River Services, Inc.	Chapter 13, Section 13.10.e.	Do not concur. These are meant to be specific instructions to be implemented by direct support staff, as written by the therapist.
13.17.b. may want to look at this. This states that subcontractors cannot work off another contractor’s license. Please define and give examples of contractor and subcontractor.	Philip Garner, Buffalo River Services, Inc.	Chapter 13, Section 13.17.b	The requirement is that contractors and subcontractors shall be appropriately licensed. The sentence "Subcontractors cannot “work off of” another contractor’s license", has been deleted.
13.17.d. What constitutes a “good faith effort”? Please clarify and define.	Philip Garner, Buffalo River Services, Inc.	Chapter 13, Section 13.17.d.	The language has been clarified to read as follows: "The ISC/CM shall obtain three (3) competitive bids from qualified EAM providers when the amount exceeds limits set forth by the State Purchasing Division."

<ul style="list-style-type: none"><li>• 13.3 Assuring Clinical Coverage: providers are responsible for assuring staff coverage for authorized services and must have a back-up plan for extended clinician illnesses, leave or vacations. This is a problem when a PSS sub-contract may be with an individual therapist and an agency does not have any additional therapist on staff that could function as a back-up. Backup should be available and provided.</li></ul>	TNCO	Chapter 13, Section 13.3	The Department understands that this is a complicated issue. However, planning for back-up clinician coverage is essential for continuity of treatment and to avoid delay of service.
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Comment	Source	Policy/Rule/TCA Reference	DIDD Response
14.2.h. Reimbursement Considerations. Nursing oversight by an RN is reimbursed only as a part of the service rate for Medical Residential Services and Other Residential Services at a reimbursement level of four (4) or higher.- The RN oversight is no longer applicable to residential services of level four (4) or lower. This should read "...level of five (5) or higher".	Donald Redden, Developmental Services of Dickson County	Chapter 14, Section 14.2.h.	The provider manual has been corrected to read as follows: "Nursing oversight by an RN is reimbursed only as a part of the service rate for Medical Residential Services."
Reimbursement will not be provided for: - Although probably covered elsewhere, this would be a good place to add as an exclusion, "Services provided by a nurse not currently licensed in the State of Tennessee as a RN or LPN".	Donald Redden, Developmental Services of Dickson County	Chapter 14, Section 14.2.h.	This requirement is clearly stated in the Provider Agreement and is identified as a situation that could lead to recoupment.

Comment	Source	Policy/Rule/TCA Reference	DIDD Response
Services. 7. The personal assistance provider must complete monthly reviews as indicated in Chapter 4. – In Chapter 4 the terminology used is “periodic review”. We would suggest a word search and replace “monthly review” with “periodic review” whenever used with non-therapeutic providers.	Donald Redden, Developmental Services of Dickson County	Chapter 15, Section 15.3.d.	Concur. The change has been made

Comment	Source	Policy/Rule/TCA Reference	DIDD Response
The manual states we can only use acronyms that are in the manual without having to state what they stand for. Could “BA” be one of the approved acronyms. BA is again not listed in the appendix, and is a very common acronym used.	Zach Shoemaker	Throughout	Your comment has been boted. The acronym for BA has been added to the glossary.

Comment	Source	Policy/Rule/TCA Reference	DIDD Response
There's also -- and I've noticed in the drafting of the manual -- and I can see why, having come from the government myself at one point. Obviously, the Provider Manual has been drafted by various people and various sections, and one thing that's been fixed in a lot of respects is the use of the term "provider" or "legal representative." I mean -- excuse me. The person or legal representative. You see that throughout most of the Provider Manual. In some areas in the Provider Manual they continue to use the term "a person or a family." This is an inappropriate means of drafting because an adult -- the family of an adult has no rights, no rights to make decisions for a person unless they're named conservator, or unless the person wants to involve them. In other words, a provision for involving family and COS, it's a mandatory provision the way I read it of -- it says, "The family shall be invited," if the person wants them or if the conservator wants them. The family has no independent right to be involved. Parents of adults don't have rights, and that's important to understand, so I think the language there should be changed to say "person or legal representative." Just make it consistent with the rest of it, the rest of the language.	William Barrett, ComCare	None	The language will be clarified to refer to person and/or legal representative.
Betty McNeely, Journeys in Community Living. First of all I want to applaud the department in its attempts to shorten their Provider Manual. It reminds me of the saying, "A man's reach should exceed his grasp, or what's a heaven for." That's where we are on that.	Betty McNeely, Journeys in Community Living	None	Thank you for your comment.
It's very important that, in order for the manual to be usable, that the link to policies be very, very clear in the manual. It should be very easy for us to find what is applicable in the particular area by the manual. It's also very important that if we are being guided to a policy, that that policy be up to date. If the policy has been modified, then we should strike through that portion of the policy that's no longer applicable; otherwise, we're going to have a great deal of confusion in terms of using this manual. There's a lot of good stuff in there. It's stuff that I don't like too much.	Betty McNeely, Journeys in Community Living	None	Your comment has been noted.

Comment	Source	Policy/Rule/TCA Reference	DIDD Response
I do really appreciate the department clarifying the fact that providers are members of the circle of support and applaud them for getting rid of the confusing differentiation that's been made between the circle of support and the planning team. That was a very good decision on the part of the department.	Betty McNeely, Journeys in Community Living	None	Thank you for your comment.
My final remarks are just in regard to the public hearing process itself. Obviously, Dr. Miller, this is an important event by evidence of the attendance today. I would like to thank you for the openness of this hearing, as compared to some situations in the past. It's been obvious that public hearings are not one of DIDD's favorite activities and pastime, but we would tell you how important this is. DIDD staff have spent a lot of time in developing these recommendations, but the other side of that is: Providers are the ones that have to live by these rules. And certainly the comments that have been made today -- and I know within our own regulatory committee of TENNCO, we have spent many hours looking at these. These comments, we hope, will not be taken lightly. We do certainly want to indicate that one of the important elements of this is responsiveness from DIDD.	Lee Chase, Dawn of Hope Inc. and TNCO	None	Your comment has been noted.
Just as a note, the last public hearing that we had 60 days ago, we still have not received a response, so the concern with that is that the Web site indicates that this Provider Manual will be implemented November 1. We don't know if you can get comments back, but it certainly raises some question about the value and the integrity of the comments that we're making if the implementation is to go as scheduled.	Lee Chase, Dawn of Hope Inc. and TNCO	None	Your comment is noted. The Provider Manual implementation date has been revised to March 1, 2014.

Comment	Source	Policy/Rule/TCA Reference	DIDD Response
It's been said that he who has the gold makes the rules and, of course, we know who has the gold here. It's not providers. But again we do want to just make also one other element relative to the Provider Manual itself. There is a veiled reference that perhaps there might be policies applicable to providers that fall outside of this manual that might not be subject to public hearing. We would just certainly caution, you know, that again, I think, as one of my colleagues mentioned, that if there are policies that are going to be heavily enforceable to providers, that great care is taken as to how those policies are developed, communicated and implemented. Again, as I said, the integrity of this process does rest in DIDD's hands on the timeliness, the responsiveness of reasonable, logical and the progressive recommendations that have been made. Thank you.	Lee Chase, Dawn of Hope Inc. and TNCO	None	Your comment is noted.
My name is Debbie Mann. I'm a conservator. I have a brother who is part of the system here. I also have the advantage of having worked in one of the adult activity centers here in Tennessee, and from my vantage point I hear a lot about accountability, which as a conservator,	Debbie Mann, Conservator	None	Thank you for your comments.
I'm on board with that; however, I also realize how those layers added can take away from the services that you people are trying to provide to people like my brother. I've had to -- it hasn't been easy guiding my brother through his development. He was 25 before he ever was placed in any kind of educational environment, so he was way behind the eight ball, and within my family we had very large differences of opinion about how much -- how much freedom he should be given to make his own decisions, and so I pushed for him being able to make as many of his own decisions as he possibly could within the realm of his ability to do so. I've heard the word "fair" several times. We all know that "fair" is different in different situations, so what's fair for my brother may not be fair for another client that you have. We're all charged with doing the best that we can to allow individuals with special needs to be the most they can be. While that certainly requires some supervision from the state, I personally experience some issues where, in spite of the efforts of the state, you know, having the guideline and	Debbie Mann, Conservator	None	Thank you for your comments.

Comment	Source	Policy/Rule/TCA Reference	DIDD Response
everything, when it comes to what's going on out in the field, it's not happening the way I wanted things to happen. Okay. My brother is very lucky in that he has a very verbal, vocal conservator. I'm actively involved. I've been there throughout the whole nine yards, and I know there are a lot of people in the system who don't have Debbies, so it's y'all's responsibility to step up to the plate and make that difference for those people. So I applaud you guys for that because without the support, you know, that my brother and my family have had, he would not have had the kind of life that he has had. I've been blessed with wonderful individuals who worked very hard to see to it that he's had some opportunities that he would not have had otherwise. I've also had to really fight some battles and some struggles within the agencies that we were working for because I didn't feel like things were being handled the way they needed to be handled, so I'd like to encourage both the state and the agencies to listen to your conservators, to your families, to the individuals, and when you have an issue, come to us, because when I've had problems,	Debbie Mann, Conservator	None	Thank you for your comments.
it's because those lines of communication were not there. There have been a couple of instances where actually things were misrepresented to me. That didn't work out very well. It's not nice to make Debbie unhappy, so those of you who have Debbies involved with your clients, you know what I'm talking about, because we're going to go to battle if you, you know, if you mess with our people. So I really want to encourage the state to take into consideration, you know, if you need the information and you got a situation, that's one thing, but when you require those extra layers of these people, then it takes away from the time that they have to provide for people like my brother. Thank you.	Debbie Mann, Conservator	None	Thank you for your comments.

Comment	Source	Policy/Rule/TCA Reference	DIDD Response
My Comment: CQL standards and tools are mentioned briefly in the manual by name. The influence and presence of those standards without direct citation is quite opaque; we know that CQL readiness assessments for providers are pending. Any adoption of those standards should be indicated as explicitly as possible in the initial adoption of this manual and in any subsequent revision. Loose reference to such a complex array of standards as “a guide” leaves providers with no clear standard of accountability. This is of particular concern due to the complex interaction (at best) or conflict (at worst) between issues of “risk versus choice” and “person-centeredness versus “protection from harm”. While the most astute and correct execution and analysis can lead to the perfection of harmony between these two strains of support and of life, providers need for more explicit exegesis. Providers have limited hope of success when such potential conflicts in values and interpretation are not clarified by explicit rules.	John Croxton, Sertoma Center	None	Your comment has been noted.
Disability Law & Advocacy Center of Tennessee (DLAC-TN) appreciates the continued opportunity to collaborate with the Department of Intellectual and Developmental Disabilities (DIDD) to ensure that people with intellectual and developmental disabilities are full participants in their communities. In reviewing the Department’s Provider Manual Draft, we were pleased to note the inclusion of language referencing both intellectual and developmental disabilities in the vision statement. We strongly urge inclusion of the language referencing developmental disabilities in the mission statement and in all appropriate references throughout the manual.	Lisa Primm, Disability Law & Advocacy Center	None	Your comment has been noted.



Comment	Source	Policy/Rule/TCA Reference	DIDD Response
<p>We support DIDD in its efforts to simplify and shorten the Provider Manual and to make it easier to revise should circumstances/regulations change. We can cite various examples of information being clarified and simplified, making the entire manual somewhat easier to use and understand. Several recommendations:</p> <ul style="list-style-type: none"><li>• Links to policies on the DIDD website should be direct and clearly indicated by policy name. If the referenced policy contains out of date information, this information should be clearly stricken through so as to minimize confusion.</li><li>• Although it is certainly appropriate for the Provider Manual to contain a brief discussion of the underlying person-centered philosophy of the Department and its services, extensive philosophical discussion, especially including vague, not definable terminology and sweeping inaccurate statements about practice, is unnecessary and unhelpful.</li></ul>	TNCO	None	Your comment has been noted.
<ul style="list-style-type: none"><li>• Although we understand the difficulty of keeping a work in progress up-to-date, we are disappointed and quite concerned that agreements arrived at in the Regulatory Relief Task Force were not incorporated in the Provider Manual. As these agreements were reported to the Legislature as resolved, the changes should be incorporated into the Provider Manual before it becomes effective</li></ul>	TNCO	None	While many recommendations were made by the Regulatory Relief Task Force, not all recommendations were approved by the Department.